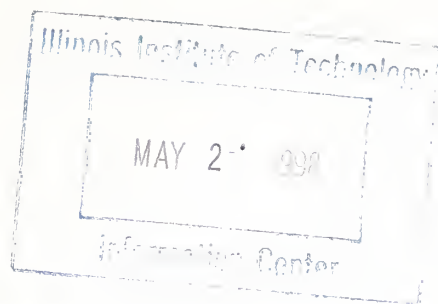


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**1998**

# ***Illinois Register***

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## **Rules of Governmental Agencies**

Volume 22, Issue 20—May 15, 1998

Pages 8,053- 8,596

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**George H. Ryan**  
Secretary of State

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printed on a quarterly basis. The printing schedule for the quarterly and  
annual indexes are as follows:

April	17, 1998 - Issue 16: Through	March	31, 1998
July	17, 1998 - Issue 29: Through	June	30, 1998
October	16, 1998 - Issue 42: Through	September	30, 1998
January	15, 1999 - Issue 3: Through	December	31, 1998 (Annual)

## INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

## REGISTER PUBLICATION SCHEDULE 1998

Material Rec'd before Noon on:	Will be in Issue #:	Published on:	Material Rec'd before Noon on:	Will be in Issue #:	Published on:
Dec. 23, 1997	1	Jan. 2, 1998	June 30, 1998	28	July 10, 1998
Dec. 31, 1997	2	Jan. 9, 1998	July 7, 1998	29	July 17, 1998
Jan. 6, 1998	3	Jan. 16, 1998	July 14, 1998	30	July 24, 1998
Jan. 13, 1998	4	Jan. 23, 1998	July 21, 1998	31	July 31, 1998
Jan. 20, 1998	5	Jan. 30, 1998	July 28, 1998	32	Aug. 7, 1998
Jan. 27, 1998	6	Feb. 6, 1998	Aug. 4, 1998	33	Aug. 14, 1998
Feb. 3, 1998	7	Feb. 13, 1998	Aug. 11, 1998	34	Aug. 21, 1998
Feb. 10, 1998	8	Feb. 20, 1998	Aug. 18, 1998	35	Aug. 28, 1998
Feb. 17, 1998	9	Feb. 27, 1998	Aug. 25, 1998	36	Sept. 4, 1998
Feb. 24, 1998	10	Mar. 6, 1998	Sept. 1, 1998	37	Sept. 11, 1998
Mar. 3, 1998	11	Mar. 13, 1998	Sept. 8, 1998	38	Sept. 18, 1998
Mar. 10, 1998	12	Mar. 20, 1998	Sept. 15, 1998	39	Sept. 25, 1998
Mar. 17, 1998	13	Mar. 27, 1998	Sept. 22, 1998	40	Oct. 2, 1998
Mar. 24, 1998	14	Apr. 3, 1998	Sept. 29, 1998	41	Oct. 9, 1998
Mar. 31, 1998	15	Apr. 10, 1998	Oct. 6, 1998	42	Oct. 16, 1998
Apr. 7, 1998	16	Apr. 17, 1998	Oct. 13, 1998	43	Oct. 23, 1998
Apr. 14, 1998	17	Apr. 24, 1998	Oct. 20, 1998	44	Oct. 30, 1998
Apr. 21, 1998	18	May 1, 1998	Oct. 27, 1998	45	Nov. 6, 1998
Apr. 28, 1998	19	May 8, 1998	Nov. 3, 1998*	46	Nov. 13, 1998
May 5, 1998	20	May 15, 1998	Nov. 10, 1998	47	Nov. 20, 1998
May 12, 1998	21	May 22, 1998	Nov. 17, 1998	48	Nov. 30, 1998*
May 19, 1998	22	May 29, 1998	Nov. 24, 1998	49	Dec. 4, 1998
May 26, 1998	23	June 5, 1998	Dec. 1, 1998	50	Dec. 11, 1998
June 2, 1998	24	June 12, 1998	Dec. 8, 1998	51	Dec. 18, 1998
June 9, 1998	25	June 19, 1998	Dec. 15, 1998	52	Dec. 28, 1998*
June 16, 1998	26	June 26, 1998	Dec. 22, 1998	1	Jan. 4, 1999*
June 23, 1998	27	July 6, 1998*	Dec. 29, 1998	2	Jan. 8, 1999

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

\* Monday



DEPARTMENT OF CENTRAL MANAGEMENT SERVICES  
NOTICE OF PROPOSED AMENDMENTS

will be considered before the rules are adopted under emergency procedures.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: These rules will apply to small businesses, local government and not-for-profit organizations seeking to lease property to the State. They should, however, have little practical impact as the system mandated by the rules is already largely in place. These rules simply codify statutory changes made mandatory by PA 90-572.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

We are particularly interested in receiving comments from small businesses, small municipalities and not-for-profit entities.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the two most recent agendas because: The law on which these rules are based was not signed until February 6, 1998.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES  
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Acquisition, Management and Disposal of Real Property

- 2) Code Citation: 44 Ill Adm. Code 5000

3) Section Numbers: Proposed Action:

5000.120	Amend
5000.230	Amend
5000.231	New
5000.232	New
5000.233	New
5000.234	New
5000.235	New
5000.240	Amend
5000.250	Amend
5000.660	Amend

- 4) Statutory Authority: Public Act 90-572 [30 ILCS 500]

- 5) A Complete Description of the Subjects and Issues Involved: Amends existing rules to incorporate changes mandated by the Illinois Procurement Code, Public Act 90-572.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this Part? No. However, other rulemaking related to the Illinois Procurement Code is being conducted by the Department. That rulemaking will replace 44 Ill. Adm. Code 1.

- 10) Statement of Statewide Policy Objectives: Places in rule form the RFI procedures currently being used by the Department.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Stephen W. Seiple  
720 Stratton Office Building  
Springfield IL 62706  
217/782-9669

All written comments will be considered. Those received by June 10, 1998

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND

## PROPERTY MANAGEMENT

## SUBTITLE D: PROPERTY MANAGEMENT

## CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## PART 5000

## ACQUISITION, MANAGEMENT AND DISPOSAL OF REAL PROPERTY

## SUBPART A: GENERAL

## Section

5000.100 Authority  
5000.110 Policy  
5000.120 Applicability

## SUBPART B: LEASED SPACE ACQUISITION POLICY

## Section

5000.200 General Policy and Responsibility  
5000.210 Requests for Space/Agency Responsibilities  
5000.220 Acquisition Authority  
5000.230 General Acquisition Procedures  
5000.231 Acquisition of Leases by RFI  
5000.232 Leases Acquired by Other Methods  
5000.233 Renewal or Extension of Lease in Effect Prior to July 1, 1998  
5000.234 Renewal of Leases Entered into After July 1, 1998  
5000.235 Purchase Options  
5000.240 Lease Administration  
5000.250 Emergency Lease Procurement

## SUBPART C: BUILDING STANDARDS

## Section

5000.300 Scope  
5000.310 Area Measurement  
5000.320 Space Planning Assistance  
5000.330 Open Space  
5000.340 Space Allowance and Standards  
5000.350 Office Furnishing  
5000.360 Handicapped Accessibility  
5000.370 Vending Facilities/Blind Operators  
5000.380 Improvements

## SUBPART D: ASSIGNMENT AND MANAGEMENT OF SPACE

## Section

5000.400 Assignment and Management by DCMS  
5000.410 Assignment by Agencies

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## 5000.420 Reviews and Appeal of Space Assignment Actions

5000.430 Services Provided

5000.440 Alterations

5000.450 Local Requirements

SUBPART E: UTILIZATION OF SPACE  
(STATE-OWNED AND LEASED PROPERTIES)

## Section

5000.500 Space Inspections and Surveys  
5000.510 Responsibility of Agencies  
5000.520 Release of Space Not Fully Utilized  
5000.530 Notice to DCMS of Relinquishment or Termination of Space

## SUBPART F: EXCESS REAL PROPERTY

## Section

5000.600 Excess Real Property Defined  
5000.610 Reports of Excess Real Property  
5000.620 Utilization of Excess Real Property  
5000.630 Charges for Use of Excess Property  
5000.640 Temporary Occupancy  
5000.650 Disputes  
5000.660 Non-State Use

## SUBPART G: SURPLUS REAL PROPERTY

## Section

5000.700 Surplus Real Property Defined  
5000.710 Declaration of Surplus  
5000.720 Reporting Surplus Real Property  
5000.730 Notice of Availability to State Agencies  
5000.740 State Agency Requests for Surplus Real Property  
5000.750 Transfer Decisions  
5000.760 Transfer Procedures  
5000.770 Transfer to Department of Central Management Services  
5000.780 Subsequent Disposal  
5000.790 Sale of Surplus  
5000.800 Notice of Sale to Local Governments  
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5000.830 Public Sale Procedures  
5000.840 Non-State Interim Use

## SUBPART H: USE OF OFFICE BUILDING

## Section

5000.900 Applicability

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

5000.910 Definitions  
 5000.920 Business Hours and Public Access  
 5000.930 Prohibited Activities  
 5000.940 Demonstrations  
 5000.950 Exhibits and Special Events  
 5000.960 Distribution of Leaflets and Solicitations of Funds, Voter Registration and Signatures  
 5000.970 Severability

APPENDIX A Space Standards  
 APPENDIX B Rental Fees

AUTHORITY: Implementing Section 7.1 of the State Property Control Act [30 ILCS 605/7.1], implementing and authorized by Sections 51, 67.02, 67.06, 67.07, 67.22 and 67.24 of the Civil Administrative Code of Illinois [20 ILCS 5/51 and 20 ILCS 405/67.02, 67.06, 67.07, 67.22 and 67.24] and authorized by Section 6 of the State Property Control Act [30 ILCS 605/6], and the Illinois Procurement Code [30 ILCS 500] (see P.A. 90-572).

SOURCE: Adopted at 6 Ill. Reg. 12984, effective October 13, 1982; emergency amendment at 7 Ill. Reg. 3743, effective March 18, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 7825, effective June 22, 1983; emergency amendment at 8 Ill. Reg. 13444, effective July 17, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 19345; amended at 10 Ill. Reg. 636, effective December 31, 1995; amended at 17 Ill. Reg. 1006, effective January 19, 1993; emergency amendment at 17 Ill. Reg. 2361, effective February 5, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 10753, effective July 1, 1993; amended at 18 Ill. Reg. 1886, effective January 21, 1994; emergency amendment at 17 Ill. Reg. 15653, effective September 9, 1993, for a maximum of 150 days; amended at 19 Ill. Reg. 585, effective January 9, 1995; amended at 20 Ill. Reg. 15002, effective November 7, 1996; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

## Section 5000.120 Applicability

This Part applies these rules apply to any activity of the Department of Central Management Services pertaining to the acquisition, management or disposal of State owned or leased real property. This Part shall be read in conjunction with applicable provisions of the Standard Procurement Rules, 44 Ill. Adm. Code 1. In the event of any conflict, this Part shall prevail over the Standard Procurement Rules. Department of Central Management Services authority is divided as follows:

- a) For purposes of leasing office and other space, the DCMS shall conduct all leasing activities as described herein for all State agencies, authorities, boards, commissions, departments, institutions, bodies politic and all other administrative units of outgrowths of the

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

executive branch of State government except the Constitutional officers, the State Board of Education and the State colleges and universities and their governing bodies.

- b) For purposes of space assignment in DCMS managed buildings, all agencies must abide by this Part these rules.
- c) For purposes of leasing State land, DCMS has primary authority over land controlled by the several departments. No department may lease State land without the approval of DCMS except that the Departments of Natural Resources Conservation, Transportation-Mines and Minerals and Agriculture may lease land under their jurisdiction to comply with program functions.
- d) Only DCMS may dispose of surplus State land.
- e) Any State agency, board, commission, etc., not required by statute or rule to use DCMS real estate services, may elect to do so.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## SUBPART B: LEASED SPACE ACQUISITION POLICY

## Section 5000.230 General Acquisition Procedures

- a) DCMS will review State-owned space and space leased by other agencies which may be suitable to fill the agency space request. Such space, because it involves no outside expenditure or because use would avoid unnecessary lease costs, will be used in preference to newly acquired leased space. Exceptions will only be granted upon strong justification submitted by the head of the agency requesting space.
- b) If no suitable State-owned or controlled space is available, DCMS will so advise the requesting agency.
- c) To help ensure that DCMS personnel have awareness of comparable facilities, DCMS will periodically solicit information from property owners and managers regarding space that might be available for State use.
- d) DCMS will maintain proposals received from solicitations for at least twelve months from date of receipt. These proposals will be reviewed to determine whether any locations are suitable to fill a particular space request.
- e) Acquisition of leased space will be by negotiation. In acquiring space, DCMS will negotiate with multiple lessors of comparable facilities to the maximum extent practical.
- f) Acquisition of space by lease will be on the basis most favorable to the State, with due consideration to maintenance and operational efficiency, and only at charges consistent with prevailing rates in the community for comparable facilities. In those instances where alterations to a property are needed, DCMS will review and approve the scope of work and method of payment prior to the commencement of work. Agencies are not to perform alterations to leased properties or



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

enter into contracts for alterations without DCMS approval. DCMS will not, however, approve any lease or renovations therein without the agency desiring the space making a positive recommendation. Factors that could influence the decision to approve alterations include but are not limited to: length of term, cost relative to base cost, cost of base plus alterations compared to other site costs, degree of permanency of alterations, and demonstrated program need for alterations.

e)† DCMS shall determine the appropriate term for a given lease (not to exceed 10 5 years unless paid solely by federal funds) and negotiate accordingly. The particular terms and conditions of a given lease will in general conform to DCMS standard lease form provisions. Changes, additions or deletions to these terms shall be at DCMS' discretion. Agency input will be solicited prior to negotiation.

f)† DCMS will attempt to negotiate a favorable renewal option, State-option cancellation clause, and purchase option provision when appropriate.

g)† All leases shall be accompanied by a full written disclosure of the identity of every owner and beneficiary having any interest in the premises being leased.

1) Such disclosure shall be subscribed and sworn or otherwise affirmed on oath by an owner, authorized trustee, corporate official, or managing agent.

2) Such disclosure shall set forth all ownership interests. By way of example, the disclosure should identify the names of the beneficiaries of a land trust in addition to the trustee, the names of all partners whether general or limited in nature, and the names of all shareholders in a corporation who are entitled to receive more than 1/2% of the total distributable income of the corporation. If stock in a corporation is publicly traded and no readily known individual owns more than a 1/2% interest, then the requirements of this rule may be met by an officer or managing agent of the corporation making an affirmative statement to this effect under oath.

3) Such disclosure shall set forth the identity of any State officer, employee or elected official, or the wife, husband, or minor child of such person having an ownership or beneficial interest under the lease. In the event such person is so set forth, the disclosure shall include a specific designation of the percentage of the total distributable income such person, together with that of the wife, husband, or minor child of such person, is entitled to receive from any firm, partnership, association, or corporation which is the lessor.

4) It shall be the responsibility of the lessor to notify DCMS of any changes in ownership or beneficial interest and to submit updated disclosure statements reflecting such changes within 30 days after such change.

b) All leases shall be in writing and shall include:

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

1) a provision that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the lease.

2) a termination option in favor of the State after 5 years.

1) Space that is not in compliance with the applicable accessibility regulations (see Appendix A) or is not capable of being brought in compliance with the installation of minimum essential features of accessibility by the time of occupancy, shall not be considered for use.

1) A copy of all leases whose annual rent is \$10,000 or more shall be filed with the Comptroller within 15 days after their execution by the Director of DCMS.

1) In selecting sites, preference may be given to sites located in enterprise zones, TIF districts, or redevelopment districts when requested by the Chief Executive Officer of a unit of local government located within the boundaries of the site search area.

5) Updated disclosure is required for all existing leases in effect on the effective date of this rule, and for all such leases, a report must be submitted within 90 days after the effective date of these rules which:

A) discloses any changes of ownership or beneficial interests from those previously reported, or

B) confirms that there have been no changes.

6) The failure of a lessor to provide the disclosure required under the provisions of this Section shall be deemed a material breach of the lease and shall constitute grounds for termination of the lease agreement:

j) There shall be a standardized record-keeping and investigative procedure employed by DCMS personnel between the initial request by an agency for leasehold facilities and the time of executing a lease. This procedure is as follows:

1) The request for space by an agency shall be assigned to a DCMS leasing representative whose responsibility it shall be to assemble potential leasing facilities:

A) in doing so, the leasing representative shall view prospective facilities, gather necessary leasehold data, photograph potential sites, detail name of owner of building and prospective terms of lease, obtain copy of multiple listing sheet if property has been placed on the market, obtain comparable square foot costs in the immediate vicinity, and prepare written memorandum to the immediate superior detailing such above information. All documentary information shall be a permanent file of the DCMS file.

B) Should any employee or representative of the agency desiring space be involved in viewing prospective locations, the name of such individual shall be noticed on the written report.

C) There shall be no dissemination of any information by either agency personnel or DCMS personnel concerning prospective

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

locations-to-anyone-outside-the-respective-agencies-involved in-the-leasing-search.

B) The-leasing-representative-shall-transmit-the-result-of-any leasehold-potentials-to-his-immediate-supervisor-together with-a-recommendation-for-further-action.

2) Upon-receipt-from-the-leasing-representative-of-potential-lease arrangements-the-supervisor-shall-review-the-documentary evidence-and-be-responsible-for

A) negotiating-with-any-potential-lessor-or-authorizing negotiations-by-the-subordinate-or-other-party-and

B) communicating-to-the-particular-agency-any-facts-necessary to-enable-agency-personnel-to-have-meaningful-input-into-the leasehold-negotiation.

3) Any-proposed-lease-which-contains-non-standard-terms-together with-all-negotiated-items-shall-be-submitted-to-the-DCMS-legal counsel-with-a-memorandum-by-the-supervisor-outlining-the negotiations-and-detailing-the-oral-representations-which-the parties-have-tentatively-agreed-upon.

4) Counsel-for-DCMS-shall-at-this-point-review-the-original memorandum-and-the-terms-of-negotiation-review-the-prospective lease-as-to-form-and-legal-validity-and-issue-a-written recommendation-to-the-leasing-supervisor-regarding-approval. The-Director-or-designate-after-a-complete-review-of-all documentation-shall-make-the-final-decision-with-regard-to-the execution-of-the-lease.

6) After-internal-review-the-lease-documents-will-be-prepared-by DCMS-and-sent-to-the-lessor-and-using-agency-for-signature-the lease-will-then-be-returned-to-DCMS-for-final-execution-and distribution.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 5000.231 Acquisition of Leases by RFI

All leases, except those falling under the exceptions listed in Section 5000.232 or emergency procurements (Section 5000.250) will be acquired as follows.

a) All leases will be procured by a Request for Information (RFI). RFIs will contain at a minimum the following information:

1) A description of the general type of property to be leased.

2) The proposed use of the property.

3) The proposed term of the lease.

4) Preferred location of the property.

5) General information such as size of space, configuration desired and any other appropriate requirements.

6) Address to which requests for proposal may be sent.

7) Date on which responses are due.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

b) Notices of the RFI shall be:

1) published at least 14 days prior to the deadline for responding in both the Illinois Procurement Bulletin and a newspaper having general circulation in the area in which space is being sought.

2) of an appropriate size to draw attention and shall be placed in the legal advertisement section.

c) A proposal package shall be mailed to all parties requesting one in writing. Proposal packages may also be mailed to owners of property that may meet the State's needs.

d) Proposal packages shall at a minimum include:

1) A Proposal Form.

2) A copy of the Agency Program Requirements.

3) An envelope for submitting the proposal.

4) The date on which proposals must be submitted.

e) All responses to the RFI will be publicly opened on the announced opening date. Names of all parties submitting proposals will be made available to the public.

f) DCMS representatives may conduct discussions with respondents to further clarify the needs of the State or obtain further information on responses.

g) On the basis of the responses to the RFI, the Director of DCMS or his designee shall make a written determination of which RFIs submitted are responsive to the State's basic criteria.

h) DCMS representatives will enter into negotiations with all parties submitting responsive RFIs for the purpose of obtaining the best terms for the State. A written record of all negotiations will be maintained by DCMS.

i) The DCMS leasing manager shall review all relevant information and shall recommend to the Director of DCMS which proposal should be accepted.

j) The Director of DCMS will make the final award, which will be announced in the Illinois Procurement Bulletin.

k) The lease will be reduced to writing and executed by all parties.

l) Should the lowest priced proposal not be selected, the Director of DCMS shall publish notice, along with the reasons for such selection, in the next available edition of the Procurement Bulletin.

m) The State reserves the right to reject any and all proposals and to re-evaluate and evaluate "best and final" proposals. All decisions on compliance, evaluations, terms and conditions shall be made solely at the State's discretion and made to favor the State.

(Source: Added at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 5000.232 Leases Acquired by Other Methods

a) The following types of leases may be acquired without a formal RFI process.



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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- 1) Leases of less than 10,000 square feet as determined by DCMS space measurement standards (see Appendix A).
- 2) Leases whose base rent is estimated to be less than \$100,000 per year.
- 3) Leases whose term is less than one year and whose term is not subject to renewal.
- 4) Specialized space available only at one location. Specialized space is defined as space or unique function or configuration, not generally available on the market on an as built or turnkey basis. Examples of specialized space include, but are not limited to: laboratories, vehicle testing stations, correctional facilities, medical facilities, boat docks and evidence storage facilities.
- 5) Leases with other governmental units.
- 6) Acquisition of such leases shall be by negotiation. Written summaries of all negotiations shall be maintained in DCMS files.
- 7) DCMS is not restricted to negotiating only with those who respond to advertisements. DCMS shall remain responsible to consider other buildings or space known to meet general criteria.
- 8) Recommendation of sites shall be reduced to writing and the final determination shall be made by the Director of DCMS. Reasons for selection shall be documented and maintained in DCMS lease files.
- 9) None of the above shall prohibit the Director of DCMS from ordering a lease procurement to be made under the RFI provisions of Section 5000.231 if the Director deems it in the best interests of the State.

(Source: Added at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 5000.233 Renewal or Extension of Lease in Effect Prior to July 1, 1998**

Leases in effect prior to July 1, 1998 may be renewed or extended without advertisement or an RFI process if:

- a) The Director of DCMS determines that the renewal or extension is in the best interest of the State.
- b) The Director submits that determination in writing, along with the proposed renewal or extension, to the State Procurement Board.
- c) The Board does not object in writing within 30 days after submission.
- d) The Director of DCMS publishes notice of the renewal or extension in the next available issue of the Procurement Bulletin.

(Source: Added at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 5000.234 Renewal of Leases Entered into After July 1, 1998**

- a) Leases may be renewed if:
  - 1) The Director of DCMS determines in writing that such renewal is

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- in the best interest of the State.
- 2) Notice of such renewal is published in the Procurement Bulletin at least 60 days prior to the exercise of such option.
- b) Documentation justifying renewals shall be maintained in DCMS lease files.

(Source: Added at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 5000.235 Purchase Options**

- a) All leases of free standing facilities shall contain an option to purchase exercisable by the State.
- b) Purchase options may be omitted if:
  - 1) The lease is with a governmental entity or a not-for-profit entity.
  - 2) The Director of DCMS determines that a purchase option is not in the State's best interest and publishes his/her written determination in the Procurement Bulletin.

(Source: Added at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 5000.240 Lease Administration**

- a) DCMS will perform all functions of leasing building space and land incidental thereto for covered State agencies except as provided herein. Agencies otherwise authorized to acquire space by lease may request DCMS to perform such leasing functions in specific instances. Officials or employees of agencies for which DCMS will acquire leased space shall at no time, before or after a space request is submitted to DCMS or after a lease agreement is made, directly or indirectly contact lessors, offerors, or potential offerors for the purpose of making oral or written representation or commitments or agreements with respect to the terms of occupancy of particular space, tenant improvements, alterations and repairs, unless authorized by DCMS. Consequently, when it is ascertained by DCMS that an unauthorized contact has been made, lease acquisition action may be deferred until its nature and impact can be determined. Whenever an unauthorized contact is judged by the responsible DCMS leasing official to be detrimental to the State's interest, further leasing action may be suspended for such time as may be required to eliminate or minimize the detrimental impact.
- c) Lessors, offerors, or potential offerors, or their agents, shall be referred to the appropriate DCMS office.
- d) Agencies shall not negotiate lease terms, negotiate settlements, withhold rentals, or vacate a leased property without the prior approval of DCMS. Agencies are encouraged to deal with minor



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landlord/tenant problems (i.e., minor repairs, building comfort complaint, etc.) at a local level. Any significant difficulties shall immediately be reported to the appropriate DCMS Office for handling. All problems shall be noted on the local level on the forms provided by DCMS for this purpose and proper records maintained for use in the event a specific problem goes unresolved and further action is required.

e) Each agency is responsible for budgeting sufficient money in appropriate line items to cover all obligations. Payments are to be made by the occupying agency and will not be considered the responsibility of DCMS.

f) Except when deemed by the State Procurement Board to be in the best interest of the State, no State agency may incur rental obligations before occupying the space rented.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 5000.250 Emergency Lease Procurement

Emergency lease procurements may be made pursuant to 44 Ill. Adm. Code 1.2030 of the Standard Procurement Rules.

a) The Director may, upon good cause shown, suspend the application of Subparts A-B of this Part governing the acquisition of leased real property in the event of a natural disaster, including but not limited to fire, flood, or other casualty, or agency action required by the order of a court of competent jurisdiction, where strict compliance with the applicable rule would result in consequences adverse to the best interests of the State.

b) All requests for emergency suspension of applicable rules in a proposed lease transaction shall be accompanied by a written memorandum to the Director from the responsible leasing official setting forth the following:

- 1) A detailed description of the natural disaster or the requirements of a court order precipitating the request;
- 2) A detailed description of the proposed leasing transaction;
- 3) A narrowly drawn specification of the rule or rules sought to be suspended in application to the proposed leasing transaction;
- 4) A specific indication that no reasonable alternatives exist to the suspension of the rule or rules which would be in the best interests of the State.

c) Prior to submission to the Director the written memorandum of request shall be reviewed and approved by DCMS legal counsel.

d) The Director, after review of the memorandum of request, may grant the suspension sought in whole or in part, with respect to the proposed lease transaction, provided, however, that such suspension shall apply only to leases with terms not to exceed 2 years in duration.

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(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 5000.660 Non-State Use

a) Excess Real Property

1) Excess real property which cannot be used by a State agency may be leased to the public, with governmental units being the preferred tenants, for periods of time not to exceed five years unless longer periods are authorized by statute. Vacant land shall be leased for periods of longer than five years if one of the following conditions is present:

A) The lease is made with an organization which is providing program-related services to a State agency, a not-for-profit organization or a unit of local government and those services require the lessee to make permanent capital improvements to the leased land.

B) A longer lease term is specifically authorized by statute. Rental shall be at the current fair market value payable to the proper State Treasury account in cash except that leases of Department of Corrections property for farming may be paid by crop share to the State. Rental may be waived or reduced to less than fair market value upon a showing of clear advantage to the State. Use of property for agency program related purposes or to prevent waste of the property are examples of clear advantage.

b) Leases of excess property for office or storage use shall be accomplished by direct negotiation or sealed bidding pursuant to 44 Ill. Adm. Code 1.2010.

c) Leases of excess property for farm purposes will be accomplished by sealed bid, pursuant to 44 Ill. Adm. Code 1.2010. Invitations for bid will be published at least 3 times in a ten-day period in a newspaper having general circulation in the county containing the property. This notice will inform all interested parties about the property, term of the lease, bid opening date and how to obtain additional information. At the date set for bid opening all bids will be read aloud and recorded. The winning bidder will be the one whose bid provides the best monetary return to the State and which meets all other conditions of the bid. A 10% performance bond or other security may be required of the winning bidder.

d) Improvements made to State land will be forfeited to the State unless removed by lessee without damaging State property. Upon removal, lessee will restore the State property to its original condition unless specific written permission to the contrary is given.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Standard Procurement2) Code Citation: 44 Ill Adm. Code 13) Section Numbers:Proposed Action:

1.100 Repealed  
1.110 Repealed  
1.120 Repealed  
1.130 Repealed  
1.200 Repealed  
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## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED REPEALER

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## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED REPEALER

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- 4) Statutory Authority: Public Act 90-572 repeals the Illinois Purchasing Act [30 ILCS 505], the State Printing Contracts Act [30 ILCS 515] and the State Paper Purchasing Act [30 ILCS 510], the main laws under which these rules were promulgated. Public Act 90-572 requires rulemaking to implement the new Illinois Procurement Code [5 ILCS 500].
- 5) A Complete Description of the Subjects and Issues Involved: Repeal of Standard Procurement Rules (44 Ill. Adm. Code 1).
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No. However, rules are being proposed to replace these rules.
- 10) Statement of Statewide Policy Objectives: Rulemaking does affect units of local government. The existing rules regarding joint purchasing are being repealed. Revised rules will replace the repealed rule.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days of the date of publication to:  
  
Stephen W. Seiple  
720 Stratton Office Building  
Springfield IL 62706  
217/782-9669
- 12) Initial Regulatory Flexibility Analysis:  
  
A) Types of small businesses, small municipalities and not for profit corporations affected: All types  
  
B) Reporting, bookkeeping or other procedures required for compliance:  
None  
  
C) Types of professional skills necessary for compliance: None  
  
Revised rules will replace the repealed rules. The rules being repealed govern how the State purchases from small businesses and in some cases not-for-profit entities. The rules also govern joint purchase activities that affect small municipalities and certain not-for-profits.
- 13) Regulatory Agenda on which this rulemaking was summarized: This



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rulemaking was not included on either of the 2 most recent Regulatory Agendas because: The law was not signed until February 6, 1998.

The full text of the Proposed Repealer begins on the next page:

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED REPEALER

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND  
PROPERTY MANAGEMENT

SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## PART 1

## STANDARD PROCUREMENT (REPEALED)

## SUBPART A: GENERAL

Section  
1.100 Authority  
1.110 Policy  
1.120 Applicability  
1.130 Definitions

## SUBPART B: APPROVAL OF PROCUREMENT RULES

Section  
1.200 Approval Required  
1.210 When Approved  
1.220 Filing of Rules  
1.230 Standard Form of Rules  
1.240 Non-Standard Form of Rules  
1.250 Length of Approval

## SUBPART C: PROCUREMENT RESPONSIBILITY

Section  
1.300 General  
1.310 Department of Central Management Services  
1.320 Department of Transportation  
1.330 Capital Development Board  
1.340 Procuring Agency Responsibility  
1.350 Delegation of Procurement Authority

## SUBPART D: SOURCES OF SUPPLY

Section  
1.400 Open Source of Supply  
1.410 Special Sources  
1.420 Directed Source

## SUBPART E: METHODS OF PROCUREMENT

Section  
1.500 General

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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1.510 Competition Encouraged  
 1.515 Competitive Procurement and Procedure  
 1.520 Source Selection  
 1.530 Statutory Circumstances Allowing Negotiation  
 1.540 Negotiation After Award  
 1.550 Multiple Awards  
 1.560 Pre-Emption

## SUBPART F: PUBLICIZING PROCUREMENT ACTIONS

## Section

1.600 Official State Newspaper  
 1.610 Advertising Required  
 1.620 Re-Advertisement  
 1.630 Direct Solicitation

## SUBPART G: INVITATIONS FOR BID AND RESPONSE

## Section

1.700 Bid List  
 1.710 Contents of Invitations for Bids  
 1.720 Time and Place to Submit Bids  
 1.730 Submission of Bids  
 1.740 Change or Withdrawal of Bid  
 1.750 Submission Binding  
 1.760 Bid Reservations

## SUBPART H: RESPONSIBILITY OF BIDDER

## Section

1.800 Bidder Must be Responsible  
 1.810 Determination by Procuring Agency  
 1.820 Proof of Responsibility  
 1.830 Standards of Responsibility  
 1.840 New Bidders

## SUBPART I: BID AND PERFORMANCE SECURITY

## Section

1.900 Security Required  
 1.910 Form of Security  
 1.920 Amount  
 1.930 Subsequent Requirement  
 1.940 When Allowed or Required  
 1.950 Annual Security  
 1.960 Return of Security

## SUBPART J: SPECIFICATIONS AND SAMPLES

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Section  
 1.1000 Specifications Required  
 1.1010 Reference Specifications  
 1.1020 Brand Name or Equal  
 1.1030 Proven Products  
 1.1040 State Required Samples  
 1.1050 Representative Sample  
 1.1060 Payment for Samples  
 1.1070 Product Demonstration

## SUBPART K: AWARD OF CONTRACT

## Section

1.1100 Bid Opening  
 1.1110 Recording  
 1.1120 Award  
 1.1130 Alternate Bids  
 1.1140 Supplementary Orders  
 1.1150 Delay in Award  
 1.1160 Cancellation of Invitation  
 1.1170 Notice of Cancellation  
 1.1180 Rejection of Individual Bids  
 1.1190 Minor Irregularities or Irregularities in Bids  
 1.1200 Time of Award  
 1.1210 Binding Contract

## SUBPART L: MISTAKES IN BIDS

## Section

1.1300 General  
 1.1310 Apparent Clerical Mistake  
 1.1320 Other Mistakes Disclosed Before Award  
 1.1330 Disclosure of Mistakes After Award  
 1.1340 Processing Mistakes  
 1.1350 Procedural Error by State

## SUBPART M: CONTRACT TERMS

## Section

1.1400 Terms and Conditions of Transactions  
 1.1410 Amendments

## SUBPART N: CONTRACT PERIOD AND FISCAL FUNDING

## Section

1.1500 Fiscal Year Contracting  
 1.1510 Contracts Spanning Fiscal Years  
 1.1520 Fiscal Funding Termination Policy

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1.1530 Preference in Funding  
1.1540 Notice of Failure of Funding

## SUBPART O: CONTRACT PRICING AND FINANCING

Section  
1.1600 Allowable Price Structure  
1.1610 Firm Pricing  
1.1620 All Costs Included  
1.1630 Maximum Price for Printing  
1.1640 Contract Financing  
1.1650 Prevailing Wage Required

## SUBPART P: PERFORMANCE

Section  
1.1700 Full Compliance  
1.1710 Deliveries  
1.1720 Inspection  
1.1730 Assignments by Successful Bidder  
1.1740 Submission of Invoice Vouchers

## SUBPART Q: VENDOR COMPLAINTS

Section  
1.1800 Performance Monitoring  
1.1810 Initial Complaint  
1.1820 Written Complaint  
1.1830 Complaints to be Filed  
1.1840 Prompt Action Essential  
1.1850 Grounds for Complaint  
1.1860 Action by Receiving Agency

## SUBPART R: TERMINATION OR RESCISSION OF CONTRACT BY STATE

Section  
1.1900 Cancellation for Breach of Contract  
1.1910 Cancellation for Fraud, Collusion, Illegality, Etc.  
1.1920 Withholding Monies to Compensate State for Damages  
1.1930 Damages

## SUBPART S: SUSPENSION AND DEBARMENT

Section  
1.2000 Suspension  
1.2010 Terms of Suspension  
1.2020 Causes for Suspension  
1.2030 Debarment

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1.2040 Ineligible List

## SUBPART T: PROTEST OR OBJECTIONS

Section  
1.2100 General  
1.2110 Time and Place for Protest or Objections  
1.2120 Suspension of Award  
1.2130 Evaluation of Protest or Objection  
1.2140 Additional Administrative Remedies

## SUBPART U: SOCIOECONOMIC PROGRAMS

Section  
1.2200 General  
1.2210 Small Business  
1.2215 Minority and Female-Owned Business  
1.2220 Criteria for Small Business (Recodified)  
1.2225 Sheltered Workshops for the Disabled  
1.2230 Required Use (Recodified)  
1.2235 Procurement from Vendors with Supported Employees  
1.2240 Withdrawal of Set-Aside (Recodified)  
1.2250 Small Construction Business Advance Payment Set-Aside (Repealed)

## SUBPART V: JOINT PROCUREMENT AGREEMENTS

Section  
1.2300 General  
1.2310 State Use of Other Contracts  
1.2320 Use of State Contracts  
1.2330 No Agency Relationship  
1.2340 Obligations of Participating Governmental Units  
1.2350 Centralized Contracts - Estimated Quantities  
1.2360 Centralized Contracts - Definite Quantities

## SUBPART W: MISCELLANEOUS

Section  
1.2400 Inspection and Audits  
1.2410 No Rights Conferred  
1.2420 Government Furnished Property  
1.2430 Attempt to Influence Award  
1.2440 Collusive Bids  
1.2450 Identical Bids  
1.2460 Proprietary Information  
1.2470 Severability

AUTHORITY: Implementing and authorized by the Illinois Purchasing Act [30 ILCS



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## NOTICE OF PROPOSED REPEALER

505]; the State Paper Purchasing Act [30 ILCS 510]; State Printing Contracts Act [30 ILCS 515]; the Minority and Female Business Enterprise Act [30 ILCS 575].

SOURCE: Adopted at 7 Ill. Reg. 100, effective December 17, 1982; amended at 7 Ill. Reg. 13481, effective October 4, 1983; amended at 7 Ill. Reg. 13844, effective October 12, 1983; codified at 8 Ill. Reg. 14941; Sections 1.2210, 1.2220, 1.2230, 1.2240 recodified to Section 1.2210 at 9 Ill. Reg. 6118; amended at 10 Ill. Reg. 923, effective January 2, 1986; amended at 10 Ill. Reg. 18707, effective October 22, 1986; amended at 11 Ill. Reg. 7225, effective April 6, 1987; amended at 11 Ill. Reg. 7595, effective April 14, 1987; amended at 13 Ill. Reg. 17804, effective November 7, 1989; emergency amendment at 16 Ill. Reg. 13118, effective August 7, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 600, effective January 5, 1993; amended at 17 Ill. Reg. 14576, effective August 27, 1993; amended at 20 Ill. Reg. 9015, effective July 1, 1996; old Part repealed and new Part adopted at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

## Section 1.100 Authority

This Part is promulgated in accordance with Section 5 of the Illinois Purchasing Act (Ill. Rev. Stat. 1991, ch. 127, par. 132.5), Section 3 of the State Printing Contracts Act (Ill. Rev. Stat. 1991, ch. 127, par. 132.203), Section 67.01 of the Civil Administrative Code (Ill. Rev. Stat. 1991, ch. 127, par. 63b.13.1), and the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, pars. 1001-1 et seq.).

## Section 1.110 Policy

All State procurements shall be accomplished in the most economic, expeditious and commercially reasonable manner that is in accordance with Illinois law and these and other applicable rules. This Part is promulgated to guide the procurement practices of State agencies. Operational interpretations are to be made in a flexible manner designed to secure the State's needs and protect its interests.

## Section 1.120 Applicability

This Part applies to all procurement by or through delegation from the Department of Central Management Services and to all agencies adopting this Part. All State agencies, without exception, must adhere to the provision in this Part in regard to approval of procurement rules.

## Section 1.130 Definitions

"Agency" - Unless otherwise specified or unless the context indicates

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another construction, agency means all departments, officers, commissions, boards, institutions and bodies politic and corporate of the State but does not mean the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Governors of State Colleges and Universities, the Board of Regents, or municipalities and all other local governmental units.

"Bid" - An offer made by a bidder in response to State request for Sealed Bids, Sealed Proposals or Negotiation.

"Bidder" - Any person who submits a bid. The term bidder may also, in appropriate context, refer to the successful bidder or to a vendor.

"Contracting Officer" - The person employed by an Ordering Agency to place orders from established contracts or to solicit bids as allowed by this Part.

"DCMS" - Means the Department of Central Management Services.

## Electronic Data Processing

"Equipment" - A machine or group of interconnected machines consisting of input, storage, computing control and output devices that use electronic circuitry in the main computing element to perform arithmetic and/or logical operations automatically by means of internally stored or externally controlled programmed instructions and associated storage media. Examples of electronic data processing (EDP) equipment include, but are not limited to: computer (CPU) mainframes and their peripheral input, output, storage, channel, and control devices; minicomputers, and their similar peripherals; distributed processors; data entry and inquiry devices; remote job entry devices; teleprocessing devices; (controllers, cathode ray tube and typewriter terminals, etc.); smallscale (microprocessors, programmable terminals, personal) computers; and word processing and text processing devices, which are internally programmable, and/or have the capability of interconnection to other computer mainframes.

"Services" - EDP-related Data Entry Service, Consulting Services, Service Bureau Services, and Timesharing Services and equipment repair and maintenance.

"Data Entry Services" - Include, but are not limited to: keypunch, verification, key-to-disk, magnetic ink character recognition optical scanning, and on-line data entry work.

"Consulting Services" - Include, but are not limited to: programming, system design, software maintenance, EDP-related personal services, and EDP-related consulting.

"Service Bureau and Timesharing Services" - Include, but are not limited to: batch job processing, remote job entry, or inquiry,

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Computer Output Microfilm (COM), processing using public domain, proprietary, or turnkey software at a non-State government host or distributed processing computer installation, and those consulting services necessary to transfer the User Agency's application to the Service Bureau.

"Associated Software" - Program modules and/or documentation which contain steps, instructions, and data for the purpose of controlling or operating EDP equipment. They may be prepackaged, or modifiable modules and/or documentation. They may require some developmental effort by the vendor and/or the State in order to operate or install the EDP equipment, or to allow the EDP equipment to accomplish the applications required. They differ from EDP consulting deliverables in that they are usually machine dependent, marketed as proprietary developments, and require only a minor amount of systems design work.

Examples of EDP Associated Software include, but are not limited to: operating systems, compilers, sorts, utilities, turnkey application packages, data base management systems, modifiable general purpose packages, and special purpose subroutine modules.

"Ordering Agency" - The agency which places orders to a Procuring Agency or which orders directly under delegated authority.

"Printing" - Means and includes all processes and operations involved in printing and any type of photographic reproduction or other duplicating process, including but not limited to letterpress, offset and gravure processes, the multilith method, any type of photographic or other duplicating process including high speed-electrostatic copier duplicators and the operations of composition, platemaking, presswork and binding; and the end products of such processes, method and operations. As used in this Act "printing" does not include photocopies used in the course of normal business activities, nor computer impact printing, nor photographic equipment used for geographic mapping nor printed matter used in the normal day to day operations of the General Assembly.

"Procuring Agency" - The agency with primary or delegated procurement responsibility. This agency will generally solicit for needs and make awards.

## SUBPART B: APPROVAL OF PROCUREMENT RULES

## Section 1.200 Approval Required

All Procurement Rules must be approved by the Director of the Department of Central Management Services. No independent procurement action may be taken until this approval is granted.

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## Section 1.210 When Approved

- a) If the submitting agency is subject to the Illinois Administrative Procedure Act, the proposed rules will be submitted to the Department of Central Management Services before or during the public comment period. If the agency desires to make a change because of a comment from the Joint Committee on Administrative Rules or from the public, the change must be submitted to DCMS for approval. If no changes are made the agency may proceed to adopt the rules.
- b) If the submitting agency is not subject to the Illinois Administrative Procedure Act, the rules must be submitted for approval prior to final adoption.

## Section 1.220 Filing of Rules

The full text of any finally adopted Procurement Rules must be submitted to the Secretary of State, Administrative Code Unit, and to the Department of Central Management Services. Those rules will be available for public inspection by any interested party.

## Section 1.230 Standard Form of Rules

The Standard Procurement Rules shall govern the procurement activities of all State agencies. Agencies with different rules on file with the Secretary of State may continue to utilize those rules until approval is revoked by the Department of Central Management Services.

## Section 1.240 Non-Standard Form of Rules

An agency which desires to modify the Standard Procurement Rules or provide rules in non-covered areas may do so provided the program needs of the agency require a modification or addition, all elements of the various applicable procurement laws are complied with, the modification does not conflict with the Standard Procurement Rules, the modifications are based on sound procurement practices, and vendor confusion would not result. Request for non-standard rule approval should be discussed with the Department of Central Management Services prior to the start of rule-making.

## Section 1.250 Length of Approval

DCMS approval is valid until revoked by DCMS. Notice of revocation will be given at least six months in advance. Approval shall be revoked if non-standard rules:

- a) do not adequately address procurement procedures,
- b) cause vendor confusion,
- c) result in unnecessary duplication, or
- d) are not properly coordinated with the Standard Procurement Rules.

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## SUBPART C: PROCUREMENT RESPONSIBILITY

## Section 1.300 General

Procurement responsibility is divided amongst various State agencies in accordance with the following. Procurements are valid only if accomplished by the agency with stated or delegated procurement authority. An agency with procurement needs must contact the appropriate procurement agency.

## Section 1.310 Department of Central Management Services

The Department of Central Management Services is responsible for procuring or establishing contracts for the following classifications for all agencies except the State universities unless otherwise indicated:

- a) Equipment
- b) Commodities
- c) Supplies
- d) Utilities
- e) Postage
- f) Electronic Data Processing Equipment, Software and Services (Only for departments, boards, commissions and agencies of the State of Illinois subject to the Governor).
- g) Telecommunications Equipment and Services (for all departments, officers, commissions, boards, institutions and bodies politic and corporate of the State except the General Assembly, legislative service agencies and all officers of the General Assembly. State colleges and universities are included under DCMS authority).
- h) Printing (excluding printed matter used in the normal day to day operations of the General Assembly).
- i) Paper and Stationery
- j) Vehicle Services (Only for the executive department of State government).
- k) Insurance and Bond Coverage.

## Section 1.320 Department of Transportation

Contracts for the construction of and maintenance services for roads, highways, bridges and airports are the responsibility of the Department of Transportation. Additional rules exist for these procurements.

## Section 1.330 Capital Development Board

Contracts for construction or remodeling of State-owned facilities are the responsibility of the Capital Development Board. All contracts for construction or remodeling of State-owned buildings in the Springfield Capitol Complex must be approved by the Legislative Space Need Commission. Additional rules exist for these procurements.

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## Section 1.340 Procuring Agency Responsibility

Contracts for service needs not covered in the preceding sections are the responsibility of each agency unless otherwise provided by law.

## Section 1.350 Delegation of Procurement Authority

- a) An agency with primary procurement responsibility may delegate procurement authority to any state agency in any reasonable manner if necessary or desirable. Such delegation shall require compliance with applicable procurement statutes and rules. An agency delegated procurement authority may not subdelegate that authority without first obtaining approval of the agency with primary procurement responsibility. If any private entity is involved in the process, writing specifications, evaluating bids or for any other reason the private entity's role shall be advisory only. All final decision shall rest with the procuring agency.
- b) The Department of Central Management Services delegates to each agency responsibility for procurements in emergency situations. The agency shall, to the extent practicable, obtain needs in the most competitive manner possible.
- c) The Department of Central Management Services delegates to each agency responsibility for obtaining goods or services available from the Department of Corrections' Correctional Industries program.
- d) The Department of Central Management Services delegates to each agency responsibility for obtaining commodities, equipment, supplies and utilities for their own use up to and including \$25,000 for single items, and up to and including \$50,000 for multiple items providing no single item exceeds \$25,000.
  - 1) For delegated procurements under \$5,000, agencies shall use their discretion to determine whether to seek competition. CMS will issue blanket authorizations and establish obligations with the Comptroller.
  - 2) For delegated procurements between \$5,000 and \$50,000, agencies shall, whenever practicable, contact at least three vendors from the CMS vendor list, provide them with the same information regarding the agency's needs and any conditions that must be observed and accept the lowest price provided the offering meets the agency's needs and conditions. If vendors not on the CMS vendor list are solicited, the agency must pre-qualify that vendor by having the vendor submit a CMS Bidder's Application Form with the vendor's offer. Agencies must submit requisitions for such procurements and CMS will issue authorizations back to the agency. CMS will establish obligations with the Comptroller.
  - 3) For all delegated procurements, the agency must keep adequate records of the actions taken to procure the goods and must report on such activities using the form prescribed by CMS. This form will require agencies to identify the item procured, the



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competitive steps taken, the names of the vendors contacted, the prices each submitted, the name of the selected vendor and other such information.

- 4) Dividing or planning procurements to avoid use of competitive procedures ("stringing") is prohibited.
- 5) This delegation does not include items for which CMS establishes master, schedule or open-ended contracts, nor does it include items available from the Office Supply Warehouse (Springfield and Chicago area agencies only), nor does it include procurement of electronic data processing equipment, telecommunications equipment, vehicles, paper or stationary. All such items must be procured by CMS and all agencies must use such contracts established by CMS.
- e) Delegation may be revoked or reduced at any time.

## SUBPART D: SOURCES OF SUPPLY

## Section 1.400 Open Source of Supply

Unless the following Special or Directed Source can provide the needed goods or services, an agency with procurement authority may contract with any qualified source of supply.

## Section 1.410 Special Source

- a) Prior to any equipment procurement, each agency should consider property available from the State and Federal Surplus Warehouses which are under the jurisdiction of the Department of Central Management Services.
- b) Various goods and services are available from qualified workshops for the disabled and procurement from these workshops is encouraged. Bidding is not required pursuant to Section 7-1 of the Illinois Purchasing Act and information regarding the workshops is available from the Department. See also subsection 1.530(m) and Section 1.2230 of this Part.

## Section 1.420 Directed Source

In accordance with law the following sources of supply must be utilized whenever that source can supply the needs of the agency:

- a) Correctional Industries
- b) Small Business Set-aside Products and Services
- c) Central Services of the Department of Central Management Services
- d) Minority and Female-owned Business Set-aside.

## SUBPART E: METHODS OF PROCUREMENT

## Section 1.500 General

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The following sections indicate methods of procurement and do not grant independent procurement authority. Agencies with procurement authority are shown in the preceding sections.

## Section 1.510 Competition Encouraged

All procurements regardless of the method used to obtain same should be accomplished in the most economic and competitive manner practicable. Procurements of goods or services covered by Section 1.530 shall follow this Part to the extent practicable and to the extent the State's intent and needs can be best met.

## Section 1.515 Competitive Procurement and Procedure

- a) A competitive procurement is one in which more than one potential vendor is contacted, given information describing the agency's needs and any conditions that must be observed and asked to respond with a price quotation to meet those needs and conditions. Such information would be evaluated with the intent of selecting the vendor whose goods or services best meet the needs of the State, price and other factors being considered.
- b) Except for those procurements identified in Section 1.530 which are exempt from the use of competitive procurement procedures, awards are to be made to the lowest responsible bidder meeting needs and conditions.
- c) Any of the procedures described in Section 1.520, except negotiation with one vendor, are considered competitive procedures and may be used to conduct competitive procurements.

## Section 1.520 Source Selection

Sources for goods and services will be obtained by use of one of the following methods:

- a) Sealed Bid: This method requires advertising in the Official State Newspaper, evaluation of bids and award made to the lowest responsible bidder whose bid conforms to State specifications, terms and conditions.
- b) Sealed Proposal: This method is a variation of Sealed Bidding and is used when available specifications are not adequate to define what is wanted so as to make an award based solely on low price or when features are difficult to directly compare. Bidder is asked to submit a priced technical proposal which would be evaluated according to predetermined criteria. Evaluation must show winning proposal to be the best of those submitted considering price and other factors. Advertising in the Official State Newspaper is required unless good or service is defined in Section 1.530 below.
- c) Negotiation: When a bid or proposal is not required by statute or regulation and when it is determined that a negotiated procurement is

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more practicable or will result in advantage to the State, then negotiations may be conducted with one or more vendors. Negotiation may consist of direct dealing with vendors, use of advertised or unadvertised solicitations or any combination of methods. Award will be made to vendor best filling State's needs.

## Section 1.530 Statutory Circumstances Allowing Negotiation

Negotiation is authorized by law in any of the following circumstances:

- a) *Where the goods or services to be procured are economically procurable from only one source, such as contracts for local exchange telephone service, electrical energy, and other public utility services, books, pamphlets and periodicals, and specially designed business and research equipment and related supplies.* The items listed above are examples of single source items and are not intended to be exhaustive. If a specific item is unique and necessary it may be a single source item even though many similar items exist. Research and breeding livestock, for example, are individually unique and may be procured under this exception to bidding.
- b) *Where the services required are for professional or artistic skills pursuant to a written contract.*
  - 1) Professional or artistic services may be defined as services rendered by an individual or firm contractually hired by an agency because of their expertise in a given field. An essential element is trust in the ability and talent of the person performing the services. Contracts for manual skills are not included.
  - 2) Examples of professional or artistic services are set forth in the Comptroller's CUSAS manual.
- c) *In emergencies involving public health, public safety, or where immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State property, to prevent or minimize serious disruption in State services or to insure the integrity of State records.* Where funds are expended in an emergency by purchase, contract or otherwise, however, the person or persons authorizing the expenditure shall file an affidavit with the Auditor General of the State of Illinois within 10 days after the purchase or contract setting forth: the amount expended, the name of the vendor or contractor involved, and the conditions and circumstances requiring the emergency purchase. Where only an estimate of the cost is available within 10 days after the purchase or contract, the actual cost must be reported immediately after it is determined. To the extent practicable emergency procurements should only be made for requirements during the emergency and only continue until such time as a competitive bid or proposal, if otherwise required, can be made.
- d) *In case of expenditures for personal services paid to employees or officers of a State agency. As used in this paragraph, "personal*

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*services" has the meaning ascribed to that term in Section 14 of the State Finance Act.*

- 1) Services rendered by an individual as an employee of an agency and not as an independent contractor, whether paid from Personal Service or Contractual line item, are exempt from bidding.
- 2) Services rendered by an employee of a temporary help or employment agency must be secured by competitive bid or proposal unless subsection (f) below is complied with.
- e) *Contracts for repairs, maintenance, remodeling, renovation, or construction of a single project involving an expenditure not to exceed \$10,000 and not involving a change or increase in the size, type or extent of an existing facility.*
- f) *Contracts for repairs, maintenance, or any other services not specifically exempt from a competitive selection procedure under this Act where individual orders are less than \$25,000.*
  - 1) Services under this paragraph are to be contracted for in the manner and scope common in the trade or industry. Services are not to be divided into segments for the purpose of avoiding this paragraph.
  - 2) Printing contracts may not be procured under this exception. All printing must be procured under sealed bid or sealed proposal except as provided in subsection 1.530 (c) above.
- g) *Purchases of commodities and equipment where individual orders are less than \$25,000.* Purchases are not to be divided or planned so as to avoid competitive selection.
- h) *Contracts for the maintenance or servicing of, or provision of repair parts for equipment which are made with the manufacturers or authorized service agent of that equipment where the provision of parts, that maintenance or servicing can best be performed by the manufacturer or authorized service agent on such a contract would otherwise be advantageous to the State.* However, this exception is not available for plumbing, heating, piping, refrigeration and automatic temperature control systems (including testing and balancing), ventilating and distribution systems for conditioned air (including testing and balancing), electric wiring and general contract work.
  - i) *Where the goods or services are procured from another governmental agency.* This exception allows procurements from federal, State and local governmental units.
  - j) *Purchases and contracts for the use or purchase, delivery, movement or installation of data processing equipment, software or services and telecommunications and inter-connect equipment, software and services.*
    - 1) All such acquisitions shall be determined to meet the State's needs and provide the best value for the specific application.
    - 2) For acquisition made by or through DCMS, initial determination may be delegated to the ordering agency for approval by DCMS.
- k) *Personal service contracts made by members, officers, committees, or commissions of the General Assembly.*
  - 1) *Any contract for duplicating machines and supplies.*

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- m) Contracts for goods or services procured from workshops for the disabled that have been qualified to do business by DCMS. DCMS must approve such contracts to ensure reasonableness of price as determined by Section 1.225(d) of this Part.
- n) Purchases of and contracts for office equipment and associated supplies when such contracts provide for prices that are equal to or lower than Federal General Services Administration contracts and when such contracts or pricing result in economical advantage to the State.
- o) Purchases and contracts by the Department of State Police for the use, purchase or installation of forensic science laboratory analytical equipment and analytical data processing equipment used for forensic science laboratory purposes only, including equipment which is microprocessor controlled or controllable, and its software. Prior to the purchase of or contract for such equipment, the Director of the Department of State Police shall certify to the Comptroller and the Auditor General that such equipment is necessary and an integral component of the Department of State Police's statutory investigative duties and that competitive bidding will hamper such statutory duties. Such certification shall include the prices of and specifications of the equipment to be purchased or contracted for and the prices, specifications and reasons for rejection of comparative equipment by the Department of State Police. The Comptroller shall file such certification with any purchase vouchers or files maintained for the purchase. The Auditor General shall require such certification to be noted in audits performed at his direction.
- p) Any contract for State Lottery tickets or shares or for other State Lottery game related services.
- q) Purchases and contracts by the Department of Nuclear Safety for the use, purchase or installation of radiochemistry laboratory equipment, instruments and equipment used to detect radiation or radioactivity, and data processing equipment used for purposes of detecting radiation or radioactivity. Prior to the purchase of or contract for such equipment, the Director of the Department of Nuclear Safety shall certify to the Comptroller that such equipment is necessary and an integral component of the Department of Nuclear Safety's emergency response or radiation monitoring programs and that competitive bidding will hamper such programs. Such certification shall include the prices of and specifications of the equipment to be purchased or contracted for and the prices, specifications and reasons for rejection of comparable equipment by the Department of Nuclear Safety. The Comptroller shall file such certification with any purchase vouchers or files maintained for the purchase.

## Section 1.540 Negotiation After Award

An agency with procurement authority, Procuring Agency, may negotiate with the contract awardee for the purpose of securing better terms than originally offered, provided the salient features of the goods or services are not

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diminished.

## Section 1.550 Multiple Awards

An award to multiple vendors may be made when it is to the State's advantage to have multiple lines of similar products available to ensure adequate delivery, service, availability, or for product compatibility. In making multiple awards or ordering from such contracts, care should be taken to protect and promote the principles of competitive solicitation. Multiple awards should not be made when it is clear that a single award would fully serve the State's needs.

## Section 1.560 Pre-Emption

Negotiation may be used to procure goods or services where court order or federal law, regulation, or procurement practice prohibits or effectively prevents acquisition of the good or service by competitive means.

## SUBPART F: PUBLICIZING PROCUREMENT ACTIONS

## Section 1.600 Official State Newspaper

The Department of Central Management Services will select, by Sealed Bid, a secular newspaper of general circulation and printed in English to be known as the Official State Newspaper. The term of the appointment and the requirements will be specified by the Department in the Invitation for Bids.

## Section 1.610 Advertising Required

All State procurement actions may be advertised in the Official State Newspaper. It is recommended that advertisements for specific needs appear at least three times with the first and last ad at least 10 days apart. Advertisements may detail the State's needs or may generally indicate needs while inviting vendors to request Invitations for Bids. Agencies with delegated authority from CMS may solicit vendors directly from the CMS vendor list and need not advertise. CMS shall solicit vendors to apply for the list by means of advertising in the Official State Newspaper.

## Section 1.620 Re-Advertisement

When a procurement is advertised and the ad contains errors, a single corrective ad may be placed to indicate additional information required for bidding or to extend time for bidding.

## Section 1.630 Direct Solicitation

In addition to advertising, or in lieu of advertising, prospective vendors may be contacted directly. Direct solicitation may be in writing setting forth all particulars of the procurement action. Oral solicitation is permitted but care



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should be taken to ensure that all vendors solicited in this manner receive the same information. Written confirmation from vendors may be required.

## SUBPART G: INVITATIONS FOR BID AND RESPONSE

## Section 1.700 Bid List

- a) The Department of Central Management Services will establish and maintain a list of vendors interested in and qualified to do business with the State. Invitations for Bids will be sent to vendors on the bid list for goods or services in question except in the following cases:

- 1) When bidder does not sell the particular commodity or equipment.
- 2) If on two consecutive occasions a bidder fails to respond or returns the bid form without bidding for a particular good or service, an Invitation for Bid will not ordinarily be sent on the next occasion when bids are invited for that particular commodity or equipment unless the bidder indicates a desire to bid on such items by a notation on the bid form or by a subsequent letter to the Procuring Agency.
- 3) When the number of bidders for a procurement classification is of such magnitude that optimum prices may reasonably be expected without inviting bids from the entire bidders list, the Procuring Agency may, if it determines that the best interest of the State would be served, rotate the Invitations for Bids on any equitable basis, by using only part of the bidders list when it sends out Invitations for Bids.
- 4) Geographical limitation. The Invitations for Bids may be confined to bidders in a limited geographical service area, when the Procuring Agency determines that the best interests of the State will be served by so doing (example: purchases of readymix concrete, perishables and equipment requiring periodic service).
- b) Other agencies may request names of qualified vendors from the Department of Central Management Services. Such names will be given out only to allow bidding on specific procurements.
- c) Bidders on this list are considered responsible and further determinations are not required but may be made based upon new information. Bidders must update information whenever any significant change occurs.

## Section 1.710 Contents of Invitations for Bids

Invitations for Bids (IFB) will contain the following information:

- a) The goods or services to be procured or contracted for.
- b) The quantity of the item to be procured. This may be a specified quantity, all requirements up to a specified quantity during a certain period, a specified quantity with the right reserved by the State to

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- increase or decrease it, or any other method of defining quantity.
- c) The specification and item number, if any, of the goods or services. In case of certain goods or services, the Procuring Agency will send out specifications ahead of time which will apply to all future bids for those goods or services or until such time as they are amended or withdrawn.
  - d) Any installation, maintenance, warranty, or repair services to be provided with the item.
  - e) The name and location of the requisitioning agency to which invoicing and delivery is to be made.
  - f) The date or dates when delivery or service is to be made, or the period during which deliveries or service will be ordered and must be accomplished.
  - g) The type of pricing desired.
  - h) Whether the award will be based upon lowest price bid or the lowest evaluated price (best bid) whichever is applicable. If the latter is used, the evaluation criteria shall be set forth in the Invitation.
  - i) Statement of prevailing wages and benefits that must be paid.
  - j) Reference to these and any other applicable rules.
  - k) Any other terms and conditions which bids must meet.

## Section 1.720 Time and Place to Submit Bids

In addition to the above, each Invitation for Bids will indicate a date, time and place for the vendor to submit a bid. Responses received late will not be considered. The State does not prescribe the method by which bids are to be transmitted; therefore, it cannot be held responsible for delay in transmission resulting in late delivery.

## Section 1.730 Submission of Bids

Each bid must conform to the requirements of this Part and to any additional requirements in the Invitations for Bids. Unless otherwise stated in the Invitation, bids shall be returned using the State supplied bid form and envelope. Every bid should be typed or submitted in ink. Other methods, if unclear, may result in disqualification. Bids must be signed by an authorized representative of the bidder.

## Section 1.740 Change or Withdrawal of Bid

A bidder may change or withdraw a bid if written or in-person notice of the change or withdrawal is received by the Procuring Agency before the time specified for submission of bids. No change or withdrawal is allowed after bid opening except as provided in Subpart L of this Part. Modifications, changes, and erasures must be initialed in ink by the bidder.

## Section 1.750 Submission Binding

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Any bid submitted may be accepted within 30 days of opening unless a different period of time is specified in the Invitation for Bids. Acceptance by the State will bind the bidder in accordance with this Part and any terms and conditions contained in the IFB.

**Section 1.760 Bid Reservations**

The State reserves the right to reject any or all bids or any part thereof, to waive immaterial technicalities and to accept bids deemed most favorable to the interests of the State after all have been examined and evaluated.

**SUBPART H: RESPONSIBILITY OF BIDDER****Section 1.800 Bidder Must be Responsible**

Contracts are to be made only with responsible bidders unless no responsible bidder is available to meet the State's needs. If there is doubt about the responsibility of a bidder and if a bond or other security would adequately protect the State's interests, then that bidder may be awarded a contract upon receipt of the bond or other security.

**Section 1.810 Determination by Procuring Agency**

The determination of responsibility is made by the Procuring Agency and such determination is to be based upon written documentation regarding the following Standards of Responsibility. Responsibility can be proven until time of award or execution of contract, whichever is later.

**Section 1.820 Proof of Responsibility**

Each prospective bidder must provide the State with adequate documentation of responsibility. The State will ordinarily provide forms for this information. The State may supplement this information from other sources and may require additional documentation at any time.

**Section 1.830 Standards of Responsibility**

Responsibility may be determined by consideration of whether the bidder:

- a) Has adequate financial resources or the ability to obtain such resources as required during the performance of the contract. The Procuring Agency may designate a level of financial resource below which the bidder will be deemed "not responsible".
- b) Is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments.
- c) Has a satisfactory record of performance. Bidders who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible"

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unless the deficiency is shown to have been beyond the reasonable control of the bidder.

- d) Has a satisfactory record of integrity and business ethics.
- e) Has a current Public Contracts number from the Illinois Department of Human Rights if required. Proof of application prior to bid award will be sufficient for an initial determination.
- f) Pays prevailing wages if required by law. Each agency procuring services covered under Section 1.650(a)(3) of this Part will contact the Illinois Department of Labor to ascertain prevailing wages, benefits and conditions. These, if known, must be shown on the certification form contained in each Invitation for Bids and each bidder must certify that prevailing wages, benefits and conditions are met. Certification forms are to be filed with DCMS and the Illinois Department of Labor. Complaints regarding compliance with prevailing wages, benefits and conditions shall be directed to the Department of Labor.

**Section 1.840 New Bidders**

- a) Bidders not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required for such bidders.
- b) Bidders who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing not-responsible bidder will be declared not-responsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier declaration of non-responsibility.

**SUBPART I: BID AND PERFORMANCE SECURITY****Section 1.900 Security Required**

A Procuring Agency may require that a bidder furnish bid or performance security on State contracts. Whenever a bond is required, except as provided herein, the bid request will clearly indicate the type and amount of security.

**Section 1.910 Form of Security**

Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. However, for printing contracts, bid deposits may not be by bond or letter of credit. Any bond must be issued by a surety company authorized to do business in the State of Illinois.

**Section 1.920 Amount**

The Procuring Agency will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests. On printing

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contracts bid security is limited to 1% of the contract price and to 10% of the contract price for performance security. On paper contracts bid security is limited to \$1000 and to \$10,000 for performance security.

**Section 1.930 Subsequent Requirement**

A bidder may be required to furnish 100% performance security at his cost without prior notice if it appears that delivery or production schedule cannot be met, quality is poor, responsibility is questioned and for similar reasons.

**Section 1.940 When Allowed or Required**

- a) Bid security is permissive on any contract but is not appropriate on negotiations, emergency or sole source procurements.
- b) Performance security is permissive on any contract and is recommended on contracts calling for advance payment.
- c) Performance security is required on all public works contracts.

**Section 1.950 Annual Security**

A bidder may submit a single or continuous security each year which will be applicable on all contracts of the Procuring Agency. When such security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.

**Section 1.960 Return of Security**

Bid security will be returned to unsuccessful bidders as soon after award as possible. The bid security of the successful bidder will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

## SUBPART J: SPECIFICATIONS AND SAMPLES

**Section 1.1000 Specifications Required**

All procurements shall be based on specifications which accurately reflect the State's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements without including restrictions which do not significantly affect the technical requirements or performance requirements or other legitimate State needs.

**Section 1.1010 Reference Specifications**

Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference in any Invitation for Bids.

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**Section 1.1020 Brand Name or Equal**

- a) Specifications which refer to one or more brand name products followed by the words "or equal" may be used in any procurement activity. "Or equal" submissions will not be rejected because of minor differences in design, construction or features which do not affect the suitability of the product for its intended use. Burden of proof that product is equal is on the bidder.
- b) Brand name alone may be specified in order to fill medical prescription needs or to stock State retail-type operations.

**Section 1.1030 Proven Products**

Goods or services may be rejected if they have been used in business or industry for less than one year.

**Section 1.1040 State Required Samples**

Any required samples must be submitted as instructed in the Invitation for Bids with transportation prepaid by the bidder. Each sample must be labeled with the bidder's name, address and a means of matching the sample with the applicable bid.

**Section 1.1050 Representative Sample**

Any sample submitted must be representative of the item which would be delivered if a contract were awarded for that item. Samples submitted by a successful bidder will be retained to check continuing quality. Submission of sample will not limit the State's right to require adherence to specifications.

**Section 1.1060 Payment for Samples**

No payment will be made for State Required Samples unless a separate contractual agreement is entered into. Samples not destroyed or consumed by examination or testing will be returned upon request and at bidder's expense. Such request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.

**Section 1.1070 Product Demonstration**

Any bidder may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the State's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.

SUBPART K: AWARD OF CONTRACT



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## Section 1.1100 Bid Opening

All Sealed Bids and Sealed Proposals and where appropriate, Negotiations, received prior to the time set for opening shall be opened in public at the date, time and place specified and when practicable the record or abstract shall be read.

## Section 1.1110 Recording

- a) Bid information, including opening date, general description of the procurement, names of bidders shall be entered in an abstract or record at time of bid openings.
- b) The Contracting Officer shall certify to the accuracy of the abstract or record. This abstract or record shall be available for public inspection following the award for a period of one year.

## Section 1.1120 Award

Unless all bids are rejected, a notification shall be made in writing within the time allowed for acceptance to the responsible bidder whose bid, conforming to the request for bids, will be most advantageous to the State, price and other relevant factors being considered. The notification must be considered conditional upon favorable determination of any protest. Other factors include but are not limited to:

- a) Cash discounts. In determining the lowest bid when the Invitation for Bids asks to have cash discounts stated separately, only cash discounts having a period of thirty days or more will be taken into account. The Invitation for Bids shall state if cash discounts will be taken into account in determining the award.
- b) Trade discounts. Trade discounts should never be shown separately, but should always be deducted by the vendor in calculating the unit price quoted.
- c) Quantity discounts. Quantity discounts should be included in the price of an item. Such discounts may not be considered where set out separately unless the Invitation for Bids so specifies. When quantity discounts are requested by the invitation, the price per item shown on the purchase order shall be net (after application of such discount).
- d) Unit price governs. In case of a mistake in the calculation of total price, the unit price shall govern.
- e) Awards of any or all items. An award may be made to the lowest aggregate bidder for all items or on an item basis, or a group of like items, whichever is found to be in the best interest of the State. If a split award is not acceptable to a bidder, it must be stated in the bid response.
- f) Tie bids. If two or more bids meeting the specifications and other requirements of the Invitation for Bids are tied for low price, the bid will be treated as follows:
  - 1) If the tied vendors include an Illinois vendor, the Illinois

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vendor shall be given the award. If two or more Illinois vendors are tied the decision shall be made to choose from the Illinois vendors in accordance with paragraphs (2) through (5) following. If no Illinois vendors are included, the decision shall be made in accordance with paragraphs (2) through (5) following.

- 2) If there is a significant difference in the responsibility of the bidders (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the bidder who is deemed to be the most responsible. A bidder who has had experience in contracting with the State shall be given additional consideration in determining responsibility if the Contracting Officer determines that dealing with a vendor that has knowledge of state requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.
- 3) If there is no significant difference in the responsibility of the bidders, but there is a difference in the quality of the goods or services offered, the bid offering the best quality will be accepted.
- 4) If there is no significant difference in the responsibility of the bidders and no difference in the quality of the goods or services offered, the bid offering the earliest delivery time will be accepted in any case in which the Invitation for Bids specified that the needs of the requisitioning agency require as early delivery as possible. In all other cases, delivery time will not be considered in making awards so long as the bidder states he will deliver not later than the time specified in the Invitation for Bids as the latest acceptable delivery time.
- 5) If the bids quoting the same price are equal in every respect the award shall be made by lot to one of the low bidders unless the Contracting Officer determines that splitting the award amongst two or more of the tied bidders is in the best interest of the State. Awards shall be split if all affected bidders agree, if splitting is feasible given the type of good or service requested, and if overall pricing would be significantly lowered balanced against costs of administering multiple contracts, or if delivery would be better ensured, or if necessary or desirable to promote future competition.
- g) Foreseeable costs or delays. Additional costs or delays, not contemplated by the Invitation for Bids, such as differences in inspection, location of goods or service centers, transportation or other such factors are relevant factors in making awards.
- h) Bidder changes. Changes made or requested by the bidder, including contract terms, which do not constitute ground for rejection.
- i) Availability of Maintenance and Repair Services. If the Invitation for Bids specifies that maintenance and/or repair services will have to be provided by the successful bidder and if it appears the lowest

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bidder cannot be depended upon to provide such services promptly, or if maintenance and/or repairs are not available without excessive travel expense, the bid may be rejected even though it is the lowest bid.

If the Invitation for Bids does specify that maintenance and repair services will have to be provided by the successful bidder, the State reserves the right to require proof from the apparent low bidder that maintenance and repair services are economically available on a timely basis from other authorized sources. If such maintenance and repair services are not available the bid may be rejected even though it is the low bid.

- j) Equality of Price Structure. Evaluation on price will be made on basis of the same price or time/price structure to ensure that evaluation is made on the same basis. For example, three year lease plans can be directly compared, but if a three year plan is compared to a two year plan, price adjustments will have to be made.

**Section 1.1130 Alternate Bids**

Alternative bids may be considered in the following circumstance. If no vendor who submitted a bid can meet a particular State requirement, that requirement, even if material, may be waived and the remainder of the bid evaluated.

**Section 1.1140 Supplementary Orders**

When a Procuring Agency issues an award and an order for a particular good or service after following the prescribed procedure, it may at any time during the contract period issue additional orders to the same vendor, or amendments to the original order for an additional quantity of the same item, at the same price and on the same terms and conditions if:

- a) The vendor agrees to accept such purchase order or amendment if issued;
- b) The market price of the good or service in question has not gone down since the first purchase; and
- c) The amount of the subsequent purchases or amendments are not of such magnitude as to constitute a substantial or material variation of the original contract. Ordinarily, a variation of more than 20% should be deemed substantial or material. This applies only when the original IFB contained a definite or estimated quantity or dollar amount provision.

**Section 1.1150 Delay in Award**

Should administrative difficulties be encountered after bid opening which may delay award beyond bidders' acceptance periods, the responsive bidders may be requested, before expiration of their bids, to extend the bid acceptance period (with consent of sureties, if any) in order to avoid the need for readvertisement.

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**Section 1.1160 Cancellation of Invitation**

An Invitation for Bids may be cancelled prior to award or after consideration of protest and all bids rejected when such action is in the best interests of the State. Every effort shall be made to anticipate necessity of rejection to avoid additional procurement costs and exposure of bid prices. Reasons for rejecting all bids include but are not limited to:

- a) Inadequate, ambiguous, or otherwise deficient specifications were cited in the Invitation for Bids.
- b) The goods or services are no longer required.
- c) The Invitation for Bids did not provide for consideration of all factors of cost to the State, such as cost of transporting State-furnished property to bidders.
- d) Bids received indicate that the needs of the State can be satisfied by a less expensive good or service differing from that on which the bids were invited.
- e) All otherwise acceptable bids received are at unreasonable prices.
- f) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith.
- g) The bids received did not provide competition which was adequate to insure reasonable prices.

**Section 1.1170 Notice of Cancellation**

When it is determined to reject all bids and to rebid the request, the Contracting Officer shall notify each bidder that all bids have been rejected, stating the reason for such action.

**Section 1.1180 Rejection of Individual Bids**

- a) Any bid which fails to conform to the essential requirements of the Invitation for Bids, such as specifications, delivery schedule, or permissible alternate thereto, may be rejected as nonresponsive.
- b)
  - 1) Bids containing any material alteration or erasure may be rejected unless the change is initialed in ink by the bidder.
  - 2) Samples submitted showing evidence of altering or removing manufacturer's label, logotype, model or serial number, or any other standard of the industry for identification, shall be due cause for rejection of the bid, unless alteration or removal is supported with justifiable documentation satisfactory to the Procuring Agency.
- c) Ordinarily, a bid shall be rejected or considered an alternative bid where the bidder imposes conditions which would modify requirements of the Invitation for Bids or limit liability to the State so as to give an advantage over other bidders. For example, bids may be rejected in which the bidder:
  - 1) Attempts to protect against future changes in conditions such as

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increased costs, if total price to the State cannot be determined for bid evaluation.

- 2) Fails to state a price and, in lieu thereof, states that price shall be "price in effect at time of delivery".
- 3) States a price but qualifies such price as being subject to "price in effect at time of delivery".
- 4) Where not authorized by the invitation, conditions or qualifies the bid by stipulating that the bid is to be considered only if, prior to date of award, bidder receives (or does not receive) award under a separate procurement.
- 5) Limits rights of State under any contract clause. However, a low bidder may be requested to delete objectionable conditions from the bid if these conditions do not go to the substance, as distinguished from the form of the bid. A condition goes to the substance of a bid where it affects price, quantity, quality, or delivery of the items offered.
- d) Any bid may be rejected if the contracting officer determines in writing that it is unreasonable as to price.
- e) Bids received from any person or concern debarred or ineligible shall be rejected if the period of debarment or ineligibility has not expired.
- f) Low bids received from firms determined to be not responsible.
- g) Where a bid security is required and a bidder fails to furnish it in accordance with the requirements of the Invitation for Bids.
- h) After submitting a bid, if a bidder transfers all of his assets or that part of his assets related to the bid during the period between the bid opening and the award, the transferee may not take over the bid except with permission of the State.
- i) The originals of all rejected bids, and any written findings with respect to such rejections, shall be preserved along with the bids and other papers relating to the procurement.

## Section 1.1190 Minor Informalities or Irregularities in Bids

- a) A minor informality or irregularity is one which is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the Invitation for Bids, the correction or waiver of which would not be prejudicial to other bidders.
- b) The defect or variation in the bid is immaterial and inconsequential when its significance as to price, quantity, quality, or delivery is trivial or negligible when compared to the total cost or scope of the goods or services being procured. The Contracting Officer shall either give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive such deficiency, whichever is to the advantage of the State. Examples of minor informalities or irregularities of form include, but are not limited to:

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- 1) Failure of bidder to return the number of copies of signed bids required by the Invitation for Bids.
- 2) Failure of bidder to sign its bid, but only if
  - A) the unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned bid document, such as the submission of a bid guarantee, or a letter signed by the bidder with the bid referring to and clearly identifying the bid itself; or
  - B) the firm submitting a bid has formally adopted or authorized, before the date set for opening of bids, the execution of document by typewritten, printed, or stamped signature and submits evidence of such authorization and the bid carries such a signature.
- 3) Failure of bidder to acknowledge receipt of an amendment to an Invitation for Bids, but only if:
  - A) the bid received clearly indicates that the bidder received the amendment, such as where the amendment added another item to the Invitation for Bids and the bidder submitted a bid thereon; or
  - B) the amendment involves only a matter of form or is one which has either no effect or merely a trivial or negligible effect on price, quantity, quality, or delivery of the item bid upon.

## Section 1.1200 Time of Award

After evaluation, the Contracting Officer of the Procuring Agency will determine and announce the apparent awardee. The award will not become final until any protest period has passed. If a protest is received, award will not be made final until the protest is resolved. Award may be final immediately if necessary to secure agency needs. Performance prior to finalization of award or execution of contract is at bidder's risk.

## Section 1.1210 Binding Contract

Once an award has been finalized the bidder is bound to perform according to the terms and conditions of the Invitation for Bids and this Part or other mutually agreed to terms and conditions.

## SUBPART L: MISTAKES IN BIDS

## Section 1.1300 General

After the opening of bids, Contracting Officers shall examine all bids for mistakes. In cases of apparent mistakes and in cases where the Contracting Officer has reason to believe that a mistake may have been made, he shall request from the bidder a verification of the bid, calling attention to the suspected mistake. If a bidder alleges a mistake, the matter shall be



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favorable to the State without changing the essential requirements of the contract.

- b) If a correction would not favor the State, a determination may be made to rescind a contract or to reform a contract, to delete the item or items involved in the mistake with appropriate reductions in price, or to increase the price where such increase does not exceed \$5000 and if the contract price, as corrected, does not exceed that of the next lowest acceptable bid under the original Invitation for Bids.
- c) Such determinations may be made only on the basis of clear and convincing evidence that a mistake in bid was made, and either that the mistake was mutual or that the unilateral mistake made by the contractor was so apparent as to have charged the contracting officer with notice of the probability of the mistake. If the evidence does not warrant a determination to rescind or reform, a determination may be made that no change shall be made in the contract as awarded.

Section 1.1340 Processing Mistakes

- a) Suspected or alleged mistakes prior to award shall be processed as follows:

1) Whenever the Contracting Officer suspects that a mistake may have been made in a bid, he shall immediately request that the bidder verify the request. Such request shall inform the bidder why the request for verification is made, that a mistake is suspected and the basis for such suspicion; e.g., that the bid is significantly out of line with the next low or other bids or with the State's estimate. If the time for acceptance of bids is likely to expire before a decision can be made, the Procuring Agency, shall request all bidders whose bids may become eligible for award to extend the time for acceptance of their bids. If the bidder whose bid is believed erroneous does not grant such extension of time and a decision cannot be reached before expiration of the time for acceptance, even if handled by telegraph or telephone as provided in subsection (d) of this Section, the bid shall be considered as originally submitted.

2) If the bidder verifies his bid, the Procuring Agency shall consider it as originally submitted. If the bidder alleges a mistake, the Contracting Officer shall advise him to support his allegation by statements concerning the alleged mistake and by all pertinent evidence, such as the bidder's file copy of the bid, his original worksheets and other data used in preparing the bid, subcontractors' and suppliers' quotations, if any, published price lists, and any other evidence which will serve to establish the mistake, the manner in which it occurred, and the bid actually intended.

- b) If a mistake is disclosed after award the contracting officer shall advise the contractor to support the alleged error by written statements and by all pertinent evidence, such as the contractor's

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processed in accordance with this Section. Such actions shall be taken prior to award.

Section 1.1310 Apparent Clerical Mistake

Any clerical mistake, apparent on the face of a bid, may be corrected by the Contracting Officer prior to award, if the Contracting Officer has first obtained from the bidder verification of the bid actually intended. Examples of such apparent mistakes are: obvious misplacement of a decimal point; obviously incorrect discounts (for example, 1 percent 10 days, 2 percent 20 days, 5 percent 30 days); obvious reversal of the price freight or board (f.o.b.) destination and price f.o.b. origin; and obvious mistake in designation of unit. Correction shall be reflected in the award document.

Section 1.1320 Other Mistakes Disclosed Before Award

Contracting Officers of Procuring Agencies are authorized, in order to minimize delay in contract awards, to make the administrative determinations described below in connection with mistakes in bids alleged after opening of bids and before award. The authority contained herein to permit correction of bids is limited to bids which, as submitted, are responsive to the Invitation for Bids, and may not be used to permit correction of bids to make them responsive.

- a) A determination may be made permitting the bidder to withdraw its bid where the bidder requests permission to do so and clear and convincing evidence establishes the existence of a mistake.
- b) If the evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended, and if the bid, both as uncorrected and corrected, is the lowest received, a determination may be made to correct the bid and not permit its withdrawal.
- c) A determination may be made permitting the bidder to correct the bid where the bidder requests permission to do so and clear and convincing evidence establishes both the existence of a mistake and the bid actually intended. However, if such correction would result in displacing one or more lower acceptable bids, the determination shall not be made unless the existence of the mistake and bid actually intended are ascertainable substantially from the Invitation and bid itself. If the evidence is clear and convincing only as to the mistake, but not as to the intended bid, a determination permitting the bidder to withdraw his bid may be made.
- d) If the evidence does not warrant a determination under paragraphs (a), (b), or (c) of this Section, a determination may be made that a bidder may neither withdraw nor correct his bid.

Section 1.1330 Disclosure of Mistakes After Award

- a) When a mistake in a bid is not discovered until after the award, the mistake may be corrected by contract amendment or supplemental agreement if correcting the mistake would make the contract more

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file copy of the bid, his original worksheets and other data used in preparing the bid, subcontractors' and suppliers' quotations (if any), published price lists, and any other evidence which will serve to establish the mistake, the manner in which it occurred, and the bid actually intended.

c) Where the bidder furnished evidence in support of an alleged mistake, the Procuring Agency shall consider:

- 1) All evidence furnished by the bidder.
- 2) The bid, the Invitation for Bids, any specifications or drawings relevant to the alleged mistake.
- 3) The abstract or record of the bids received.
- 4) A contract if any.
- 5) A written statement by the Contracting Officer setting forth:

- A) The expiration date of the bid in question and of the other bids submitted;
- B) Specific information as to how and when the mistake was alleged;
- C) A summary of the evidence submitted by the bidder;
- D) In the event only one bid was received, a quotation of a recent contract price for the supplies or services involved, or, in the absence of a recent comparable contract, the estimate of a fair price for the supplies or services and the basis for such estimate;
- E) Any additional evidence considered pertinent including copies of all correspondence between the contracting officer and the bidder concerning the alleged mistake; and
- F) The course of action with respect to the bid that the contracting officer considers proper on the basis of the evidence.

- d) Where the bidder fails or refuses to furnish evidence in support of a suspected or alleged mistake, the Contracting Officer shall consider the bid as submitted unless the amount of the bid is so far out of line with the amounts of other bids received or with the amount estimated by the agency or determined by the contracting officer to be reasonable, or there are other indications of error so clear, as reasonably to justify the conclusion that acceptance of the bid would be unfair to the bidder or to other bona fide bidders, in which case it may be rejected. The attempts made to obtain the information required and the action taken with respect to the bid shall be fully documented.

## Section 1.1350 Procedural Error by State

If, for any reason, the Procuring Agency makes an award that is procedurally incorrect and if it determines not to overturn the award, the protesting bidder that should have received the award may only claim as damages the cost of bid preparation. An explanation of such procedural errors will be filed with the Department of Central Management Services and with the Auditor General.

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## SUBPART M: CONTRACT TERMS

## Section 1.1400 Terms and Conditions of Transactions

The following terms and conditions, or substitute language proposed by the bidder and acceptable to the State, whether in a contract form or not, shall apply to any contract resulting from these procedures:

- a) Entire Agreement - These terms and conditions, together with the Invitation for Bids, other written representation of bidder, and all sheets or documents as are made a part hereof, shall constitute the entire present agreement between the parties.
- b) Modifications - No change in, addition, or waiver of the items, conditions and specifications contained herein shall be a binding obligation on the State unless approved in writing by its authorized representative.
- c) Title and Risk of Loss - Title to the goods herein described shall not pass until said goods have actually been received by the State or its consignee, unless specifically agreed to the contrary. Risk of loss prior to actual receipt by the State or its consignee shall be borne by Bidder. Nothing herein contained, however, shall be construed by depriving the State of its interest, or limiting such interest, in the goods herein described prior to actual receipt.
- d) Inspection - All material and workmanship shall be subject to inspection and test by the State. State reserves the right to reject any goods or services which contain defects in material or workmanship or which fail to meet the specifications contained herein or bidder's warranties of the Bidder, including transportation both ways, promptly after notification of rejection. As to rejected goods and services, Bidder shall bear all costs of inspection and all risk of loss.
- e) Payment and Price - Payment by State for goods supplied hereunder shall not constitute acceptance thereof if subsequent inspection discloses defects in material or workmanship or a failure to meet the specifications contained herein. In no event shall State be charged a price higher than charged to Bidder's other customers for goods of like grade and quality and in substantially the same quantities.
- f) Shipping Instructions - If specified, packages must bear State's order number and bulk containers must also show gross, tare and net weights and or quantity. No packaging charge shall be made to State unless specified herein. All goods shall be suitably packed and classified to assure the lowest transportation rates consistent with full protection against loss or damage in transit and to meet the carrier's requirements.
- g) Deliveries - Time is of the essence. Deliveries shall be made to State's receiving area or designated installation site, not to individuals or departments.
- h) Rejection and Cancellation - State reserves the rights to reject any goods and to cancel all or any part of a transaction if Bidder fails to deliver all or any part of the goods or services described in the

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Invitation for Bids in accordance with the terms, conditions and specifications contained therein. Acceptance of any part of the goods covered by the Invitation for Bids shall not obligate State to accept future shipments nor deprive it of its rights to revoke any acceptance theretofore given. If Bidder ceases to conduct its operations in the ordinary course of business (including inability to meet its obligations as they mature), or if any proceeding under bankruptcy or insolvency laws is brought by or against Bidder, or if a receiver for bidder is appointed or applied for, or if an assignment for the benefit of creditors is made by Bidder, State may cancel this order without liability except for deliveries previously made or for goods covered by the Invitation for Bids then completed and subsequently delivered in accordance with the terms, conditions and specifications contained therein.

i) Waivers - State's waivers of any breach or failure to enforce any of the terms, conditions and specifications of the Invitation for Bids shall not in any way affect, limit or waive State's right thereafter to enforce and compel strict compliance with every term, condition and specification thereof.

j) Warranties

1) Bidder makes the following warranties to State and its customers and the users of the goods or services herein described in the bid:

A) It will, at the date of delivery, have good title to any and all goods supplied hereunder, and said goods will be free and clear of any and all liens and encumbrances.

B) Any and all goods supplied hereunder will be of merchantable quality and fit for the particular use intended.

C) Will be free from defects, whether patent or latent in material or workmanship, and will be in full conformity with the specifications contained herein.

2) Bidder agrees that the foregoing warranties shall survive acceptance of the goods, and that said warranties shall be in addition to any warranties of additional scope given to State by Bidder. The warranty in paragraph (1)(B) above may be modified if expressly brought to the attention of the Procuring Agency and an acceptable substitute offered.

k) Patent Infringement - Bidder agrees to indemnify and hold harmless State, its successors, assigns, customers, and users of the goods herein described against any and all loss, damage or injury arising out of a claim or suit for alleged infringement of any letters patent granted by the United States or any foreign government relating to the goods or services described in the bid. Bidder agrees that it will assume the defense of any and all such suits and pay all costs and expenses incidental thereto including attorney fees.

1) Governing Law - The contract formed pursuant to the terms, conditions and specifications of the Invitation for Bids and the obligations thereby imposed on Bidder and State shall be governed by and construed

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according to the laws of the State of Illinois. Bidder represents and agrees that the goods herein described have not been or will not be manufactured, sold, priced or transported in violation of any federal, state or local law or any lawful order, rule or regulations issued thereunder.

m) Assignment - Bidder shall not assign such contract without the written consent of the State.

n) New Items - Unless otherwise specified in the Invitation for Bids all items delivered must be new and current unless demonstrated industry practice allows for use of used or remanufactured parts. All must, however, be warranted as new. If used or remanufactured parts are used in new items, bidders may be required to provide statistics on service problems or breakdowns associated with such used or remanufactured parts. Nothing herein shall prohibit use of recycled raw materials.

o) Electronic Data Processing Equipment Rental or Leases must contain the following:

1) If more favorable terms are granted hereafter by the Lessor to any similar State or local governmental agency in any state in contemporaneous leases or rental agreement covering data processing equipment let under the same or similar financial terms and circumstances, the more favorable terms shall be applicable to all agreements or contracts made by any similar Illinois State agency for the rental or lease of comparable data processing equipment from the Lessor.

2) Lessor agrees that if more favorable terms for the equipment offered herein, under the same type of contract under the same financial conditions and economic factors, and for the identical or less quantity have been since the date of the commencement of this lease granted to any State or local government agency or unit in any state in the United States of America that such terms shall be applicable to this lease commencing with the date such terms become available to such other agency. Any other such terms granted to such other agency which were negotiated with such "more favorable terms" shall also be made applicable to this contract.

3) For the purposes of this provision, financial conditions and economic factors used by the Lessor to establish price will include, but not be limited to the then current interest rates, the type and model of equipment, the credit of the governmental unit, state and local taxes payable by Lessor, the purchase price of the equipment to be leased and the economic benefits available to Lessor based on applicable U.S. tax laws and regulations.

4) For purposes of this provision, contemporaneous shall mean within 90 days of execution of the contract by the State when dealing with manufacturers, dealers and brokers and 30 days when dealing with a finance company or subsidiary.

p) Equal Employment Opportunity - In the event of the contractor's



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non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act or the Rules of the Illinois Department of Human Rights ("Department"), the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

- 1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service, and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- 2) That, if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- 3) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.
- 4) That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the contractor's obligations under the Illinois Human Rights Act and the Department's Rules. If any such labor organization or representative fails or refuses to cooperate with the contractor in its efforts to comply with such Act and Rules, the contractor will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.
- 5) That it will submit reports as required by the Department's Rules, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules.
- 6) That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency

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and the Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules.

- 7) That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.
- q) Other Terms and Conditions - Any terms and conditions of sale not set forth herein shall be as set forth in the Illinois order or suborder forms. The Invitation for Bids and State bid form may also give other terms and conditions your bid must meet.
- r) Anti-Bribery - By signing the bid or contract, the bidder certifies that it has not bribed or attempted to bribe an officer or employee of the State of Illinois.
- s) Insurance - Each vendor shall carry full workers' compensation insurance and public liability insurance sufficient to protect the State's interests.

## Section 1.1410 Amendments

Contracts may be changed or modified by amendments to the original contract which are approved by the vendor and agency with procurement authority. A supplementary order as defined in Section 1.1140 is considered an amendment. Amendments may pertain to parties, scope of work, time-frame, terms or price but should be allowed only for valid consideration. Price amendments to contracts which cannot lawfully be negotiated may not exceed \$5000 and may not cause the next low price to be surpassed. Price amendments to other contracts may be in amount necessary to accomplish the State's needs. Typographical errors may be corrected or other minor changes made on the contract form if those corrections or changes are initiated by the party to be bound.

## SUBPART N: CONTRACT PERIOD/FISCAL FUNDING

## Section 1.1500 Fiscal Year Contracting

Contract must generally end on June 30 of the current fiscal year. If a contract is signed before July 1, performance may be allowed through the July 1-September 30 lapse period and payment may be made from funds of the fiscal year in which the contract was obligated.

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**Section 1.1510 Contracts Spanning Fiscal Years**

- a) All contracts may span fiscal years but must contain a clause that terminates the State's obligations immediately and without further payment being required if the Illinois General Assembly or applicable Federal Funding source fails to appropriate or otherwise make available, funds for the contract.
- b) The following types of contracts have express authorization to span fiscal years.

- 1) *Printing contracts may be for a period not to exceed two years nor extend beyond June 30 in any odd numbered year except that the term of any contract for the printing of bills, daily calendars, daily journals, Legislative Synopsis and Digest, and other similar public printing primarily for the use of either House of the General Assembly may coincide with the term for which members of the House of Representatives are elected.*
- 2) *Contracts for necessary commodities may be contracted for by DCMS on or after April 1 of the current fiscal year for delivery during, and payment from, the next fiscal year.*
- 3) *Contracts for acquisition of Electronic Data Processing, Duplication, Telecommunications scientific, research and medical equipment may have terms not to exceed seven years. No such contract will be approved by the Department of Central Management Services for a term exceeding 60 months unless the agency requesting such term can demonstrate fiscal benefit to the State, need for equipment for that period of time or other good cause.*
- 4) *Any contracts which do not obligate funds.*

**Section 1.1520 Fiscal Funding Termination Policy**

Contracts for Electronic Data Processing equipment, payable from the electronic data processing line, may contain a fiscal funding termination provision. The provision will allow payment for equipment in-place between the beginning of the new fiscal year and the date the agency appropriation bill is signed and for such additional period of time that the agency uses the equipment. Such payments to be at the previous contract rate and only if unencumbered funds exist in the appropriate line item.

**Section 1.1530 Preference in Funding**

No agency may contractually agree to give preference in funding to one contract over another.

**Section 1.1540 Notice of Failure of Funding**

The using agency will give the vendor all notice possible of a failure of funding. It is not possible to give specific advance notice of such failure because exact level of funding is not certain until agency appropriation bills

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are signed.

## SUBPART O: CONTRACT PRICING AND FINANCING

**Section 1.1600 Allowable Price Structure**

Any type of contract pricing which will promote the best interests of the State may be used provided that cost-plus-a-percentage-of-cost contracts are prohibited. A cost-reimbursement contract may be used only when a determination is made in writing that such a contract is likely to be less costly to the State or that it is impracticable to obtain goods or services except under such a contract.

**Section 1.1610 Firm Pricing**

Contracts costs shall not be increased during the term unless the Invitation for Bids or accepted bid provided for such contingencies. Any increases would have to be in accordance with the contract provision for such increases. If a government regulator of industry prices allows the regulated industry to pass on price increases despite contractual commitments, then that price increase shall be passed on to the State provided full documentation of the increase is sent to the State.

**Section 1.1620 All Costs Included**

Unless otherwise allowed by the Invitation for Bids, prices quoted shall be all inclusive covering transportation, transit insurance, delivery, installation, taxes payable by the State, and any other costs.

**Section 1.1630 Maximum Price for Printing**

The price paid for printing may not exceed the price determined on the basis of Chicago market rates for each of the operations involved in the production of a particular printing order. Rates are determined by reference to estimating handbooks and schedules, printer's production catalogs and similar studies. If a study is not available the maximum price shall consist of the closest applicable rate plus no more than 10% greater than the prevailing premium or overtime rate.

**Section 1.1640 Contract Financing**

Equipment financing arrangements shall be entered into for equipment listed in Section 1.1510(b)(3) and for other equipment if State debt is not incurred. All such contracts shall be payable from current revenues only, will not be backed by the full faith and credit of the State and all such obligations must be subject to legislative appropriations. The interest rate charged must be within the limited provided by "An Act relating to the issuance and use of Credit Cards" (Ill. Rev. Stat. 1981, ch. 17, pars. 6001 et seq.). Additional

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execution of the contract, then the contract rate will vary in like amount. If the increase cannot be determined in advance the contract will be increased by the amount of the contract or the agency may cancel the contract. If the initial prevailing wage, etc. cannot be determined prior to execution, contracts may be entered into and will remain valid for the stated term.

d) If a collective bargaining agreement is in effect governing the type of printing, janitorial, window washing or security guard service sought, that agreement will define minimum wages, benefits and conditions that must be paid in order for a bidder to be considered responsible.

e) For Public Works, location means the county where the physical work upon public works is performed, except

- 1) that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such person may be obtained in sufficient numbers to perform the work and
- 2) that, with respect to contracts for highway work with the Department of Transportation of this State, "locality" may at the discretion of the Secretary of the Department of Transportation be construed to include two or more adjacent counties from which workers may be accessible for work on such construction.

- f) For Printing Contracts, location means one of the following areas:
- 1) Cook County
  - 2) Boone, Bureau, Carroll, Champaign, DeKalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogle, Peoria, Piatt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermilion, Warren, Whiteside, Will, Winnebago, Woodford.
  - 3) Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, Williamson.
  - 4) Where the printing is performed in a plant outside the jurisdiction of this State, it shall be deemed produced in the Illinois locality in which delivery of the printing ordered is required to be made. Where such printing is required to be delivered to more than one Illinois locality, such printing shall be deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.

requirements are as follows:

a) Contract Directly with Equipment Vendor: All financing costs are established by the contract with the vendor and are either included in the rate or separately stated. This form of financing is permissible. The State retains the ability to withhold payment in event of equipment or service problems.

b) Assignment of Payment Right: It is permissible for a vendor to "sell the paper" and receive from a third-party the discounted contract price. There is no State involvement in the assignment and no change in the relationship between State and vendor. The vendor remains fully obligated to perform and State shall withhold any payments for non-performance.

c) Provision in Invitation to Bid for Third-Party Financing: If a vendor proposes a third-party to handle contract financing and the terms are stated in the proposal for evaluation, then this type of financing is permissible. Any contract should clearly state the continued obligation of the equipment vendor and this should be backed by an adequate performance bond. Withholding of payment to the third-party because of an equipment or service problem is to be negotiated to the State's satisfaction.

d) Vendor Provided Third-Party Financing: If a vendor wishes to utilize the services of a third-party to do the actual contracting, but does not disclose this in the proposal, the request will be denied unless unusual circumstances exist. In such a case the following is to be considered:

- 1) Vendor's name must be on the contract.
- 2) Price over time cannot exceed price quoted by vendor.
- 3) Must be able to withhold payment.
- 4) Should verify that a better rate cannot be obtained.

Section 1.1650 Prevailing Wage Required

a) For the following classifications and if competition exists, no bidder will be awarded a contract unless its employees are paid wages, benefits and are working under conditions prevalent in the location where the work is to be performed.

- 1) Public works
- 2) Printing
- 3) Janitorial services, window washing and security guard services having a monthly contract price of \$200 or a yearly price of \$2,000.

b) Prevailing wage and conditions prevalent means the hourly wage rate, overtime, holiday pay, pension, welfare, premium differential, vacation pay and other benefits received by employees and the environmental conditions under which they work.

c) Prevailing wage rates, benefits and conditions will be those in effect on the first date of the contract, provided that if the rate changes during the contract term and the amount of change is known before



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- g) For janitorial services, window washing and security guard services location means the county in which the work is to be performed.
- h) Prevailing wages, benefits and conditions will be determined by the Illinois Department of Labor except for printing which will be determined by the DCMS. The Department of Central Management Services will request information each April from interested parties by placing notice in the Official State Newspaper, posting in DCMS printing offices and direct inquiry. DCMS may utilize services of the Department of Labor. The results of the inquiry if no collective bargaining agreement is discovered will be tabulated and the rate set at a level to allow the majority of firms to bid. Rates will be effective for the fiscal year following determination.

## SUBPART P: PERFORMANCE

## Section 1.1700 Full Compliance

By submitting a bid the bidder agrees to comply with all applicable laws and rules and with the specific requirements set forth in the Invitation for Bids. A waiver of a requirement on one occasion will not be construed as a waiver on subsequent occasions unless a written directive indicates the waiver as permanent.

## Section 1.1710 Deliveries

- a) Upon order. Deliveries shall be made upon written order of the Procuring Agency at the times and in the amounts specified in the Invitation for Bids and in such orders for delivery. Acceptance of any late deliveries shall not constitute a waiver of any of the rights of the State under its contract with the vendor. The State may reject unapproved early deliveries if the delivery imposes a hardship on the user.
- b) Delivery point. All deliveries shall be made to the point or points specified in the Invitation for Bids.
- c) Freight prepaid in all cases. Even if the Invitation for Bids specifies F.O.B. some point (such as manufacturers plant) other than the using agency the bidder must prepay all transportation charges to the location of the using agency. The bidder may then be reimbursed for the cost of transportation from the F.O.B. point to the delivery point by adding the freight charges to the invoice accompanied by the receipted freight bill. The State reserves the right to route all shipments contracted on a F.O.B. shipping point basis.
- d) Bidder is responsible for delivery in all cases. If the using agency reimburses the vendor for part or all the transportation charges, the vendor is nevertheless responsible for delivery to the point of destination, and shall file any claims with the carrier for breakage or other losses.
- e) Trade-in equipment. If an item of equipment is offered in trade, it

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shall be the responsibility of the successful bidder to remove it from State property at his expense. No invoice will be approved for payment until such equipment is removed. Reasonable care will be taken of the equipment offered in trade, however, the State will assume no obligation to make extensive repairs to maintain it in the same condition as at the time of inspection. Bidders should expect changes in condition due to normal wear and depreciation and shall accept it in the condition found at the time of transfer.

- f) Packaging and crating. All commodities or equipment shall be delivered strongly and securely packed, according to accepted commercial practice and the packaging and marking instructions in the Invitation for Bids. No change shall be made for packing cases, baling, crating, barrels, drums, sacks or other containers except that if the vendor so specified in the bid, the vendor may make a memorandum charge and require the using agency

- 1) to return such containers for credit with transportation costs paid by the bidder, or
- 2) to pay for them if not returned in a reasonable length of time.

## Section 1.1720 Inspection

- a) All goods subject to inspection. Any commodities or equipment that fail in any respect
- 1) to meet the specifications,
  - 2) to conform to the vendor's samples or
  - 3) are not in good condition when delivered,
- will be subject to rejection. Where items are covered by Federal specifications requiring grading certificates, the State of Illinois reserves the right to have the items reinspected or graded even though shipments may be covered by United States Department of Agriculture or United States Department of Commerce grading certificates.
- b) Notice to bidder. Notice of any such rejection based on defects that should be disclosed by ordinary methods of inspection will be given to the bidder within a reasonable time after delivery of the item. Notice of latent defects which make the items unfit for the purpose for which they are required may be given at any time within one year after delivery.
- c) Bidder must remove rejected items. The vendor must remove immediately at his own expense, any item rejected. If the vendor fails to remove the items, the State may sell them and remit the proceeds of the sale (less any expenses incurred in the sale) to the vendor.
- d) Inspection at source. In some cases inspection of the commodities or equipment will be made at the factory, plant or other establishment where they are produced or grown.
- e) Inspection of premises. The contractor shall permit access to and inspection of his premises by authorized representatives of the State of Illinois at all reasonable times.

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## Section 1.1730 Assignments by Successful Bidder

- a) Contract non-assignable without approval. Except as otherwise provided in this Part, a successful bidder shall not assign his interest in the contract without the consent in writing, of the Procuring Agency.
- b) Assignment for financing. The immediate preceding provision to the contrary notwithstanding, claims for money due or to become due under the contract may be assigned to a bank, trust company or other reputable financial institution. Notice of any such assignment must be given by the vendor to the using agency and the Comptroller immediately after the assignment is made, and the invoice-voucher submitted by the vendor must clearly show both its name and address and its assignee's name and address. The warrant issued by the Comptroller will be payable in such case jointly to the vendor and the assignee, and will be forwarded to the assignee. Any such assignment shall be subject to the set-off rights of the State provided in The State Comptroller Act (Ill. Rev. Stat. 1981, ch. 15, pars. 210.12 and 210.13). See Section 1.1640 regarding contract financing for additional considerations.

## Section 1.1740 Submission of Invoice Vouchers

- a) Invoice voucher form furnished by State.
  - 1) Invoice Vouchers will be furnished by the using agency. To bill the State the bidder must fill out the State invoice voucher form. The bidder should keep a copy for his files as indicated on the invoice voucher, and at the time the bidder delivers the good or service the bidder should submit the remaining copies to the using agency as directed on the invoice voucher unless otherwise indicated on the contract. Invoice is to be sent to the agency ordering the goods or services. Bills for printing must be sent to and receive approval of the Department of Central Management Services. Approval is given after verification of
    - A) mathematical accuracy,
    - B) compliance with contract terms and
    - C) that any modifications to the contract were in accordance with agency understandings.
  - 2) Department of Central Management Services will forward approved bills to the ordering agency for payment.
- b) Detailed description of goods or services. The invoice vouchers should give a complete and detailed description of the goods or services delivered.
- c) Partial payments. If more than one shipment is required under the contract the State will make partial payment of the contract price as it receives the vendor's invoice vouchers relating to the separate deliveries.
- d) Computation of cash discounts.

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- 1) If the bidder allows a cash discount, the period of time in which the State must make payment to qualify for the discounts will be computed from the date the using agency
  - A) receives the invoice voucher (correctly filled out) or
  - B) receives and officially accepts the goods or services, whichever is later.
- 2) In addition, if any goods or services are rejected, all time from the mailing of the notice of rejection to the acceptance of items delivered shall be excluded from the discount period. The cash discount will be computed on the selling price of the item or items, only, not on the selling price plus the amount of freight if stated separately.

## SUBPART Q: VENDOR COMPLAINTS

## Section 1.1800 Performance Monitoring

It is the responsibility of the agency receiving goods or services to monitor vendor performance. Whenever a vendor fails to deliver on time, fails to meet specifications or for other such causes, the agency shall initiate a complaint to the vendor.

## Section 1.1810 Initial Complaint

For relatively minor infractions, the agency should initiate contact by telephone or in person. If not resolved by this action a written complaint should be made.

## Section 1.1820 Written Complaint

If the initial complaint is not satisfactorily answered or for serious infractions, the agency is to send a written complaint to the vendor detailing the problem. For handling complaints regarding contracts established by DCMS, a DCMS provided complaint form is to be used for processing complaints.

## Section 1.1830 Complaints to be Filed

A copy of all written complaints shall be filed with the agency with primary procurement authority for the good or service in question. Information regarding the resolution of the complaint shall also be filed.

## Section 1.1840 Prompt Action Essential

Reporting by the receiving agency must be done promptly. This is important because:

- a) Delay in following up on a complaint may make it difficult to establish the vendor's failure to perform because, among other reasons, the available evidence is sometimes not easily preserved.

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- b) Delay on part of the State in calling any vendor's attention to his failure to perform may create the impression that the State of Illinois does not enforce uniformly the obligations of all persons having State Contracts.
- c) Extreme delay may also constitute a waiver of the State's right to demand full performance under the contract in question.
- d) When complaints are not filed promptly, the State may find itself in an inconsistent position of awarding further business to an undeserving vendor who has performed poorly, but whose performance has not formally been brought to the attention of a Procuring Agency.

## Section 1.1850 Grounds for Complaint

In the following cases, a written complaint shall be prepared by the receiving agency:

- a) Failure to deliver. The goods or services are not delivered within the time specified in the contract and as ordered by the receiving agency.
- b) Failure to meet specifications. The item(s) does (do) not conform to the sample submitted by the vendor at the time he submitted his bid.
- c) Not in good condition. The item(s) is (are) not in good condition when delivered.
- d) Other breach of contract. Any other failure on the part of the vendor to perform according to the provisions of his contract with the State may be noted in a written complaint.

## Section 1.1860 Action by Receiving Agency

- a) After sending the original of the complaint to the vendor, the receiving agency shall take all necessary and appropriate steps to ensure contract compliance in resolution of the complaint by the vendor.
- b) The only actions by the vendor the receiving agency has the authority to accept as satisfactory adjustment of a complaint are:
  - 1) The vendor corrects the breach of contract complained of by supplying commodities, equipment or printing meeting all the requirements of the contract.
  - 2) In cases involving commodities or printing only, the vendor and the State may agree to decrease or increase the quantity to reflect a small shortage caused by breakage or a small overage caused by mass production or any other reason, if there is a custom in the trade that such shortages or overages may be excused. Decreases or increases may be accepted by the receiving agency if the shortage or overage is not more than 10 percent. There may be instances when a decrease or increase of more than 10 percent may be acceptable, however, in such instances authority to reject or accept must be granted in writing by the agency with procurement authority. Such authority may take the

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- c) form of approving a written cancellation or amendment form.
- If the vendor proposes to make an adjustment by
  - 1) substituting an alternative kind of commodity or equipment in place of the kind called for by the contract, or
  - 2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract (except as provided in (b)(2) above),
 such proposal must be referred to and approved by the agency with procurement authority.

## SUBPART R: TERMINATION OR RESCISSION OF CONTRACT BY STATE

## Section 1.1900 Cancellation for Breach of Contract

In any of the following cases the Procuring Agency shall have the right to terminate or rescind any contract entered into under these Purchasing Rules:

- a) In the event the successful bidder fails to furnish a satisfactory performance bond within the time specified.
- b) In the event vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the Procuring Agency.
- c) In the event any goods or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's goods or service this shall be ground for termination or rescission even though the vendor offers to replace the goods or services promptly.
- d) In the event the vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with the contract of another contract for the sale of goods or services to the State that he cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any of his contracts with the State.
- e) In the event the vendor should be adjudged bankrupt; enter into a general assignment for the benefit of his creditors or receivership due to insolvency; or disregard laws and ordinances, rules, or instructions of a purchasing official contracting officer; or act in violation of any provision of the contract or this Part; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.
- f) In the event of any other breach of contract or other unlawful act by the vendor.

## Section 1.1910 Cancellation for Fraud, Collusion, Illegality, Etc.

- a) The Procuring Agency may cancel any contract it established if there is sufficient evidence to show that:
  - 1) The contract was obtained by fraud, collusion, conspiracy, or other unlawful means, or;



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- 2) The contract conflicts with any statutory provision of the State of Illinois or of the United States.
- b) The Procuring Agency will notify the Attorney General of the facts upon which such termination or rescission is based in order that he may take such action as he deems appropriate.

## Section 1.1920 Withholding Monies to Compensate State for Damages

If a contract is terminated or rescinded under Sections 1.1900 or 1.1910, the State may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on his part on which the cancellation is based.

## Section 1.1930 Damages

The damages for which the State may be compensated as provided in Section 1.1920 or by a suit on the vendor's performance bond or by other legal remedy shall include, but is not limited to the following:

- a) the additional cost of goods or services bought elsewhere,
- b) cost of repeating the procurement procedure,
- c) any expenses incurred because of delay in receipt of goods or services, and
- d) any other damages caused by the vendor's breach of contract or unlawful act.

## SUBPART S: SUSPENSION AND DEBARMENT

## Section 1.2000 Suspension

A bidder or prospective bidder may have eligibility to do business with the State suspended upon a showing of just cause. Suspension may apply only to a particular agency in which case that agency's procuring division shall make the decision. A suspension may apply State-wide in accordance with instructions from or actions by the agency with centralized procurement responsibility for the particular good or service.

## Section 1.2010 Term of Suspension

A bidder or prospective bidder may be suspended for a reasonable period of time commensurate with the seriousness of the offense. An agency may not suspend a vendor for more than one year. The suspension will be effective within seven calendar days of receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.

## Section 1.2020 Causes for Suspension

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The following shall be sufficient grounds for suspension:

- a) Breach of contract.
- b) Delivery of goods or performance of services which do not comply with the specifications of the vendor's contract with the State.
- c) Failure to perform within the time specified in the contract or order.
- d) Failure to keep offer firm for length of time specified by the bidder in his bid.
- e) Failure to provide performance bond when required by Invitation for Bids.
- f) Collusion with other bidders or prospective bidders to restrain competitive bidding.
- g) Giving information in an application for inclusion on a bidder's list that is later found to be false or materially misleading.
- h) Any substitution of an article, even though of the same quality, without first securing the written consent of the Procuring Agency.
- i) Bankruptcy or other evidence of insolvency of the bidder.
- j) Any other facts causing substantial doubts as to whether the bidder will continue to be a responsible bidder who can be relied upon to fulfill his obligations under this Part and under any contract awarded to him.
- k) Any violation of Illinois or federal law or rule which would make it inadvisable for the State to deal with such bidder.
- l) Revocation of Department of Human Rights Public Contract number.
- m) Failure to honor warranties or to make equitable adjustment or replacements for damaged goods.
- n) Failure to provide prevailing wages and benefits where required by law.
- o) Any other violation of this Part.

## Section 1.2030 Debarment

Debarment is the permanent suspension of a bidder or prospective bidder from doing business with the State. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee or as otherwise allowed or required by law.

## Section 1.2040 Ineligible List

The Department of Central Management Services shall maintain a master list of all suspension and debarments. Each agency shall send notice of suspension within that agency to DCMS as the suspensions occur. The Master List will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

## SUBPART T: PROTEST OR OBJECTIONS

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## Section 1.2100 General

The Procuring Agency shall consider all protests or objections regarding a procurement action which are timely submitted. If the protest or objection is oral and cannot be immediately resolved, written confirmation must be timely submitted as shown below. If the written protest is not received by the time specified, the oral protest may be disregarded and award may be made in the normal manner. Each protest or objection must contain a full and concise statement of the facts and circumstances of the action which is alleged to be objectionable, why the action is objectionable legally or otherwise and a statement of the relief sought. The Procuring Agency may require additional details at any time. Failure to supply information requested by the Procuring Agency will be cause for dismissal of the protest.

## Section 1.2110 Time and Place for Protest or Objections

Written protests or objections regarding a procurement action or decision must be received by the Procuring Agency at its main office within seven calendar days of the objectionable action.

## Section 1.2120 Suspension of Award

Where a written protest against the making of an award is received, award shall not be considered final until the matter is resolved unless the Procuring Agency determines that:

- a) The items to be procured are urgently required; or
- b) Delivery or performance will be unduly delayed by failure to make award promptly; or
- c) A prompt award will otherwise be advantageous to the State.

## Section 1.2130 Evaluation of Protest or Objection

- a) The Procuring Agency shall immediately investigate the allegations against the procurement action. The nature of the allegations will determine the investigative procedure utilized:

- 1) In all actions suspending or debarring a bidder, the bidder will be required to submit a written statement as required above. After investigation of the allegations the Procuring Agency will issue a written response. The bidder may then request a meeting within seven calendar days of receipt to refute the agency findings. Both parties may question each other on matters pertaining to the action. Formal rules of evidence will not apply nor will a formal record be kept. The decision of the Procuring Agency is final.

- 2) In all other procurement actions, such as contract interpretation or termination, bid procedures, specifications or evaluations, the bidder will be required to submit a written statement as required above. The Procuring Agency will investigate the

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allegations and will issue a written response. An oral presentation may be allowed to clarify the written response. Due consideration will be given to each protest but a lesser consideration will be given to protests regarding procurements of goods or services covered by Section 1.530. The decision of the Procuring Agency is final.

- b) Each Procuring Agency may further define these procedures to comply with organizational or statutory requirements.

## Section 1.2140 Additional Administrative Remedies

- a) A supplier of printing services removed or not allowed on the bid list may appeal to the Governor after first exhausting Procuring Agency appeals. The Governor shall issue a written decision which shall be final. Appeal must be made within seven days of notice of DCMS final action.
- b) The Illinois Court of Claims provides judicial hearings and has exclusive jurisdiction to hear and determine the following matters:
  - 1) All claims against the State founded upon any law of the State of Illinois, or upon any regulation thereunder by an executive or administrative officer or agency, other than claims arising under the Workers' Compensation Act (Ill. Rev. Stat. 1983, ch. 48 pars. 138.1 et seq.) or the Workers' Occupational Diseases Act (Ill. Rev. Stat. 1983, ch. 48 pars. 172.36 et seq.), or claims for expenses in civil litigation.
  - 2) All claims against the State founded upon any contract entered into with the State of Illinois.
  - 3) All claims against the State for damages in cases sounding in tort, if a like cause of action would lie against a private person or corporation in a civil suit, and all like claims sounding in tort against the Medical Center Commission, the Board of Trustees of the University of Illinois, the Board of Regents of the Southern Illinois University, the Board of Regents of the State Regency Universities System or the Board of Governors of State Colleges and Universities; provided, that an award for damages in a case sounding in tort, other than certain cases involving the operation of a State vehicle described in this paragraph, shall not exceed the sum of \$100,000 limit prescribed by this Section does not apply to an award of damages in any case sounding in tort arising out of the operation by a State employee of a vehicle owned, leased or controlled by the State. The defense that the State or the Medical Center Commission or the Board of Trustees of the University of Illinois, the Board of Regents of the Southern Illinois University, the Board of Regents of the State Regency Universities System or the Board of Governors of State Colleges and Universities is not liable for the negligence of its officers, agents, and employees in the course of their employment is not applicable to the hearing and determination of such

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claims.

- 4) All claims for recoupment made by the State of Illinois against any claimant.

## SUBPART U: SOCIOECONOMIC PROGRAMS

## Section 1.2200 General

The Department of Central Management Services is authorized under various laws to give special consideration in the award of State contracts to certain classifications of business and not-for-profit concerns. The Department is also authorized or required to give or require that certain firms or individuals be given special consideration in regard to State contracts and subcontracts. This Subpart describes those special considerations.

## Section 1.2210 Small Business List

## a) Set-Aside

The Department of Central Management Services will determine, pursuant to Section 4 of the Small Business Purchasing Act, categories of goods for service procurements which may be accomplished by small business. Each Procuring Agency must contact DCMS to determine whether a particular procurement should be set-aside for small business. The set-aside designation may be made for current and future procurements of specific good, service or for a class of like goods or services. set-aside designation may last indefinitely or for a stated period of time. Current small business set-asides are:

Building & Grounds Maintenance  
Carpentry  
Carpet Cleaning  
Court Reporting  
Dry Cleaning  
Exterminating  
Hauling  
Janitorial  
Mechanical Serv. (Equip. Repair)  
Moving  
Painting  
Plumbing  
Roofing  
Security  
Trash Removal  
Welding  
Window Shade, Venetian Blind & Drapery Cleaning  
Window Washing

## b) Small Business List

The Department of Central Management Services will maintain a list of responsible bidders that meet the criteria of small business. A

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business that fits the definition of small on day of bid opening will be considered small for the duration of the contract.

## c) Required Use

If a Procuring Agency wishes to procure goods or services covered by a set-aside designation, it must solicit bids from responsible small business, whether on the list or not. Bids received from large business will be rejected as non-responsive.

## d) Withdrawal of Set-Aside

If the Department of Central Management Services determines that acceptance of the best bid will result in the payment of an unreasonable price, the Department shall reject all bids and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be sent to all small business explaining why their bids were rejected. After withdrawal of the small business set-aside, Invitations for Bid shall be issued in accordance with the limitations of the "Illinois Purchasing Act" and this Part.

## e) Criteria for Small Business

Unless the Department of Central Management Services provided a definition for a particular procurement which reflects industrial characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreement, facilities, sales territory and nature of business activity.
- 3) With annual sales for most recently fiscal year no greater than
  - A) \$7,500,000 for wholesale business,
  - B) \$3,000,000 for construction business, or
  - C) \$1,500,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business,
  - A) A manufacturing business shall calculate how many people it employs by determining its average employment, based on the number of persons employed on a full-time, part-time, temporary or other basis during the pay period ending nearest the last day of the third month in each calendar quarter for the third month in each calendar quarter for the preceding four quarters.
  - B) If a manufacturing business has not been in existence four full calendar quarters, its average employment should be calculated during the period it has been in existence based on the number of persons employed during the pay period ending nearest the last day of each month.



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- 5) That is both a wholesaler and a retailer has combined wholesale and retail annual sales for its most recently completed fiscal year no greater than \$7,500,000. The retail component may not exceed \$1,500,000.
- 6) When computing the size status of bidder, the number of employees and annual sales and receipts, as applicable, of the bidder and all affiliates shall be included. Concerns are affiliates when either directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

## Section 1.2215 Minority and Female-Owned Business

## a) Introduction

The Minority and Female Business Enterprise Act (Ill. Rev. Stat. 1991, ch. 127, par. 132.601 et seq.) [30 ILCS 575] (Act) authorizes the establishment of sheltered markets for minority and female-owned business, sets a minimum 10% expenditure goal for State contracts, and creates the Minority and Female Business Enterprise Council (Council) to oversee the Minority and Female Business Enterprise Act.

## b) Goal

The Governor, all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, including the governing boards of the various State colleges and universities (from this point forward referred to as state agency or agency unless specifically exempted) and excepting other constitutional officers, shall establish a goal that at least 12% of the dollar value of State contracts be awarded to minority and female-owned businesses. Of that 12%, 5% shall be for female-owned businesses, 2% for businesses owned by persons with disabilities and not-for-profit agencies for the disabled and the remaining 5% for other minority-owned businesses.

## c) Contracts and Expenditures Subject to Act

1) Agencies subject to the goal established above shall include under this program all contracts funded in whole or in part with funds appropriated by the General Assembly, unless exempted elsewhere in this Part. Funds shall be excluded from the Minority and Female Business Enterprise Act program if receipt of those funds would be jeopardized by including them in the program.

2) The following are not considered to be contracts or resulting expenditures subject to the Act:

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- A) employee wages, salary and other payroll related costs
- B) contracts between State agencies not including payments to private vendors
- C) contracts with other governmental entities
- D) refunds of money
- E) payments of money to individuals or groups in the nature of reimbursement, settlement, entitlement, or assistance
- F) where the contract is subject to federal reimbursement
- d) Council Review of Contract Categories
- The Council shall, pursuant to Section 7(2) of the Minority and Female Business Enterprise Act, review each appropriation object as found in the State Finance Act (Ill. Rev. Stat. 1991, ch. 127, par. 137 et seq.) [30 ILCS 105] and detail objects found in the Comptroller's Uniform Statewide Accounting System Manual. If after investigation it is determined that one or more minority or female-owned firms are currently capable of providing goods or services in particular categories, those categories shall remain as subject to the goal. If, however, investigation shows no minority or female-owned firms are currently engaged in providing the particular good or service in question then the Council shall consider removing the category and associated expenditures from the goal for the current fiscal year. Such removal shall occur only if the Council also finds that there is no reasonable expectation that minority or female-owned firms will enter the field during that fiscal year. Any action to remove a category from the goal under this section shall be by written resolution passed by the Council. Pursuant to Section 7(2) of the Minority and Female Business Enterprise Act the Council has determined the following detail objects are exempt from the goal.

## Assistance Payments to Individuals

## Association Dues

## Awards and Grants to Students

## Awards, Benefits and Treatment Expenses - Injured Employees

## Burial Expense Awards

## Community Services for DMHDD and Chemically Dependent

## Court of Claims Awards

## Debt Retirement

## Electricity

## Employee Tuition Fees

## Fire Protection Services

## Gas (Natural Gas)

## Grants for Educational Purposes - School Districts

## Grants for Educational Purposes - Higher Education

## Grants to Local Governments (other)

## Grants to Non-Profit Organizations

## Grants to Other State Agencies

## Grants to or on behalf of Veterans and their Dependents

## Industrial Commission Awards or Settlement Awards for Injured Employees

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Interviewee Expenses  
 Land (Relocation Costs)  
 Land, Relocation Costs (Highways)  
 Land, Relocation Costs (Waterways)  
 Land, Right of Way and Easements  
 Land, Rights of Way and Easements (Highway)  
 Land, Rights of Way and Easements (Waterways)  
 Legislative Staff Services  
 Loans  
 Lottery Prizes  
 Operating Taxes, Licenses and Fees  
 Payments into Pension Funds  
 Payments to Local Governments for Employees  
 Pensions, Annuities and Benefits  
 Postage and Postal Charges  
 Purchase of Investments  
 Refunds  
 Registration Fees and Conference Expenses  
 Reimbursement for Living Expenses for State Wards Outside State  
 Institutions  
 Reimbursements to Governmental Units  
 Retirement  
 Revenue Stamps  
 Shared Revenue Payments  
 Shared Waterway Agreements  
 Social Security  
 Taxes and Transfers  
 Tort Claims  
 Tuition, Training Supplies and Equipment for Aided Persons  
 Unemployment Compensation Payments  
 University Central Data Processing Services  
 University Central Supply Services  
 University Central Telecommunication Services  
 University Central Transportation Services  
 University Central Plant Services  
 Utilities (Other)  
 Water

- e) Council Review of Specific Contracts  
 Any State agency may ask that the Council exempt specific contracts from the goal. Justification of the exemption request must include documentation of outreach efforts to identify and use Minority Business Enterprise (MBE's) and Female Business Enterprise (FBE's), the anticipated expenditures in each area where an exemption is requested and the total agency appropriation. Upon written request by any State agency the Council shall exempt specific contracts from the goal if the agency can show that a diligent effort failed to locate one or more minority or female-owned businesses that could perform the contract at a reasonable price. A diligent effort requires

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solicitation of appropriate vendors from the master vendor list maintained by the Council, checking with the Council for updates to the list, and advertising in the official State Newspaper and locally if in the judgment of the procuring agency it is more likely to reach minority and female-owned business. In addition, when the decision to procure is first made the procuring agency shall provide as much information about the procurement as is then available to the Secretary and shall provide a copy of the Invitation for Bid, Request for Proposal or other solicitation information when in final form. Whether price quoted is reasonable will be determined by the Council based upon current market prices, historical prices, prices received by other agencies for similar goods or services, the policy of the Minority and Female Business Enterprise Act to promote minority and female-owned business and other such relevant factors. Any action regarding a request for specific exemption shall be by resolution passed by the Council.

## f) Goal Measurement

- 1) The goal shall be measured on a full fiscal year basis. The goal shall be measured against the total amount of covered expenditures. Expenditures not covered are those mentioned in subsections (c)(2), (d) and (e) above.
- 2) Certain procuring agencies such as the Department of Central Management Services and the Capital Development Board are responsible for establishing contracts for other (user) agencies. Those procuring agencies shall be responsible for meeting the goal for such contracts even though the user agency may have the appropriation to fund the contract. To properly account for the goal in these situations the following procedures shall be followed:
  - A) The user agency shall review its budget and subtract from its appropriation in each major or minor object code the amount anticipated to be spent on contracts established by the procuring agency. The amount anticipated to be spent on contracts established by the procuring agency shall be reported to the Department of Central Management Services.
  - B) Those amounts reported by user agencies to Department of Central Management Services shall be assigned by the Secretary to the appropriate procuring agency. Such amounts will be included in the amount upon which the procuring agency goal is based. This procedure does not result in money actually being transferred from the user agency to the procuring agency. Rather, the transfer is for compliance plan accounting purposes only.
  - C) If a procuring agency delegates procurement authority to a user agency, the procuring agency's goal base shall be reduced in amount of the delegation and the user agency's goal base shall be increased in like amount.
  - D) If the user agency transfers money from a line subject to

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procuring agency authority, the procuring agency's goal base shall be reduced by that amount and the user agency's goal base in the major or minor object code receiving the transfer shall be increased.

## g) Minority and Female Status

- 1) Minority or female-owned business refers to for-profit enterprises regardless of form of organization (sole proprietorship, partnership or corporation).
- 2) A female-owned business shall be counted or included for sheltered market and goal purposes as a female-owned business regardless of the ethnicity of the female owner or owners.
- 3) For a business to qualify as minority-owned, only those minorities who are male shall be counted or included for sheltered market and goal purposes except that a firm which is owned 50% by minority males and 50% by minority females shall be considered a minority-owned business for purposes of the Act.
- 4) A business owned by a person with a disability or a not-for-profit agency for the disabled shall be counted or included for sheltered market and goal purposes as a business owned by a person with a disability regardless of the ethnicity or gender of the owner or owners. Said classification will be made for the sole purpose of facilitating consistent accounting of agency contract awards to businesses covered by the Minority and Female Business Enterprise (MABFE) Act and is not intended to preclude such businesses or not-for-profit agencies from receiving any contract that may be awarded under the MABFE Act or any other contract award procedure used by State agencies and universities.

## h) Sheltered Market

- 1) Procuring agencies are authorized to limit prospective vendors to minority and/or female-owned businesses or to require that vendors utilize minority and female-owned subcontractors for certain categories of contracts or for specific contracts. When a sheltered market set-aside is made the advertisement and/or bid document, if applicable, shall clearly state the contract is available for only minority and/or female-owned business. Sheltered market set-asides may be effective for such period of time and for such number of contracts as the Procuring Agency determines is necessary to reach the goal.
- 2) Sheltered market set-asides shall be used by procuring agencies as the primary means of meeting the contracting goal when the quarterly progress reports indicate the goal established in the agency's compliance report is not or will not be met and the goal is not modified by mutual agreement between the agency and the Department.
- 3) Each procuring agency shall notify the Secretary in writing ten days prior to establishment of a set-aside.
- 4) If the procuring agency determines that acceptance of the

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set-aside bid will result in payment of an unreasonable price, the procuring agency shall reject the bids. The agency shall then either rebid under the set-aside or withdraw the set-aside designation for the particular procurement. Before a set-aside may be withdrawn, the procuring agency shall submit to the Secretary a written statement detailing why the price given is unreasonable. The Secretary shall respond within three working days approving the withdrawal of the sheltered market if, based upon current market prices, historical prices, prices received by other agencies for similar goods or services, the policy of this Act to promote minority and female-owned business and other such relevant factors, the price appears to be unreasonable. If the Secretary determines the price is reasonable the request to withdraw will be denied. If no answer is received the set-aside may be withdrawn. When a set-aside is withdrawn, the procuring agency shall notify each minority or female-owned firm that bid explaining why the set-aside was withdrawn. The procuring agency shall provide a copy of the notice to the Secretary.

- 5) Procuring agencies shall consider reducing or eliminating bond requirements when allowed by law and when the reduced bond amount would adequately protect the State's interests.
- 6) Any contract awarded to a minority or female-owned business pursuant to this Section may contain a provision allowing advance or progress payments or both. A construction contract may not contain an advance payment provision. The advance or progress payment provision may be added to a contract at any time by agreement of the parties. Procuring agencies shall consider initiating use of such provisions and shall consider requests from minority and female-owned businesses to include such provisions in State contracts. Section 9.05 of the State Finance Act (Ill. Rev. Stat. 1991, ch. 127, par. 145f) [30 ILCS 105/9.05] may be applicable to contracts with such provisions.
- 7) Only certified minority and female-owned businesses may participate in sheltered markets.
- 8) The governing boards of State colleges and universities are not required to comply with this subsection (h) and may establish their own rules governing topics described in this subsection (h).
- i) Subcontracting
  - 1) Agency goals may be satisfied in part by counting expenditures made by State vendors to certified minority and female-owned businesses as subcontractors.
  - 2) Agencies may require that vendors agree to contract with minority or female-owned business as subcontractors so that up to 10% of the project costs are paid to the minority or female-owned subcontractor.
  - 3) Agencies shall not require that a vendor enter into subcontracting with minority and female-owned business when subcontracting is



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not necessary for the vendor to perform.

4) When minority or female-owned subcontractors are required, the vendor may be required to designate them by name and anticipated expenditure as a part of the bid. Alternatively the bid may merely require that the vendor hire the necessary subcontracting to meet the subcontractor expenditure requirement.

5) If no vendor can locate minority or female-owned subcontractors willing to subcontract or if a designated minority or female-owned subcontractor is later unable or unwilling to perform, the vendor shall be excused from having to comply with the requirement provided a good faith effort was made to locate or replace the needed minority or female-owned subcontractor.

6) Good Faith Effort

A) A good faith effort shall, at a minimum, consist of the following:

- i) contacting the Minority and Female Business Enterprise Division of the Department of Central Management Services (Division) at least 15 days prior to need and requesting referrals from the certified vendor list and from any other list maintained by the Division.
- ii) advertising in the Official State Newspaper or a local newspaper as time permits.
- iii) contacting appropriate organizations such as unions, contractor associations, and minority or female oriented organizations.

B) Any vendor claiming good faith relief must fully document, in writing, the steps taken to obtain minority and female-owned subcontractors. The procuring agency may require additional information if the submittal does not meet the criteria stated above.

7) If a good faith exception is given, the procuring agency shall notify the Secretary of the Minority and Female Business Enterprise Council of the exception and shall include all pertinent information.

8) A vendor who obtains a contract requiring hiring of minority and female-owned subcontractors and who fails to do so and who does not qualify for a good faith exception is subject to having the contract cancelled and shall be liable for any damages the State may suffer because of the cancellation and need to find a substitute contractor.

j) Minority and Female-Owned Business Certification

1) Each minority and female-owned business, whether in a direct or subcontract relationship with the State, must be certified in accordance with the provisions of this Part established by the Council before the business is eligible to bid for or accept a contract or subcontract under the set-aside authorized by subsection (h). The primary purpose of the certification process is to determine if ownership is by minorities or females and to

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determine if minorities or females have operational control of the firm.

2) No agency may count expenditures with a non-certified vendor toward meeting the goal.

3) Vendors shall be self-certified upon submission of the Bidder's Application Form issued by the Department of Central Management Services and approved by the Council provided the information on the form is complete and accurate and indicates on its face that it is a minority or female-owned business as defined by the Act. This self-certification is valid until revoked for failure to provide additional information necessary to complete the Bidder's Application Form or for failure to comply with program eligibility requirements of the Minority and Female Business Enterprise Act or of this Part.

4) The full certification procedure is more detailed and requires that the Secretary (Manager of the Minority and Female Business Enterprise Division of the Department of Central Management Services) make determinations. The Secretary shall present, annually, a plan for subjecting self-certified firms to the full certification procedure. Such plan shall give first priority to those self-certified firms who have been or are about to be awarded a contract under the program. After that, priority will be determined by the date of the bidder's application form. In addition, the Secretary will in the event of an internal or third party challenge to the status of any self-certified firm conduct a full certification. The full certification procedure is outlined below.

5) Application

A) The firm seeking certification must obtain a MBE/FBE application package which includes:

- i) A letter of transmittal summarizing the program.
- ii) Form IL-401-1318 Application for MBE/FBE Certification.
- iii) Form IL-401-1319 Application for MBE/FBE Joint Venture Certification Application.

B) Form IL-401-1318 or IL-401-1319 must be completed, and all required attachments to meet the tests under subsections (j)(11), (j)(12), (j)(13), (j)(14) and (j)(15), or a written explanation of their absence, must be submitted before a determination of eligibility can be made. A sufficient explanation for the absence of required attachments is that they do not exist or do not apply to the applicant. The application package may be obtained from the Minority and Female Business Enterprise Division of the Department of Central Management Services (Division). The completed form must be returned to the Division.

6) File Preparation

A) The Division staff will establish a file for each

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application received and the following information will be recorded into an alphabetized log, entitled "MBE/FBE Applications Received":

- i) date of application
- ii) date received
- iii) name of firm
- iv) name of principal (usually the President)
- v) address
- vi) telephone number
- vii) type of certification sought (MBE or FBE)
- viii) nature of the firm's business (products or services provided)

- B) The same information will be recorded in the applicant's file on a form entitled "Receipt of Application Report".

- 7) The Initial File Review for Accuracy and Completeness

The file will be reviewed to ensure the following:

- A) All portions of the application form have been completed (including required attachments), marked not applicable (N/A.) or a satisfactory explanation for lack of completeness has been provided.
- B) The application form is signed by the owner or manager and notarized. The notary cannot be an owner or a shareholder.
- C) Missing documents or explanation of their absence will be noted, and the applicant will be requested to comply with an information request. If the applicant has indicated the firm has certified status through another organization, but no letter of certification has been included, the letter shall be requested at this time.
- D) Beginning at this point, notes on all phone calls and other contacts with the applicant will be recorded on the MBE/FBE interview form.

- 8) Second File Review Other MBE/FBE Certifications

Certification by other entities such as the state and local governments or vendor associations will be accepted by the Council, provided that the other entities' certification procedures equal or exceed the standards set forth in this Part and provided that the Council has investigated their certification procedures and has entered into an agreement that the standards will not be changed without prior notification to the Council. The Division staff shall ensure that the other entities' certification requirements continue to equal or exceed the standards set forth in this Part and can therefore be accepted by the Council. The Division will accomplish this by annually reviewing the other entities' requirements and verifying that they equal or exceed standards of this Part. If the other entities requirements no longer equal or exceed the requirements of this Part and they refuse to make needed adjustments, the Division will no longer accept that entities' certifications.

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The Division will review each such certification, beginning with the most recent, and act to revoke certifications of those vendors who do not meet the requirements of this Part. Certifications previously issued by that other entity will be honored until revoked by the Secretary.

- 9) Additional Data Collections

If the applicant has not been previously certified as a MBE/FBE, the Division staff will conduct a personal interview with the applicant which may include a telephone interview and/or an announced on-site visit. During the on-site visit, the Division staff will use Form IL-401-1318 or Form IL-401-1319, whichever is appropriate and the site visit checklist to collect information to verify the application. The on-site visit will be completed upon review and approval of the completed application. The on-site visit may be triggered at any point during the certification process to verify compliance or at any point prior to the time of recertification.

- 10) Determination of Eligibility

Upon completion of a thorough examination of all information gathered from all sources (the application form, site visit, prior history, and other source data), the Division staff will begin the process to determine eligibility. The goal should be to complete the entire certification process within 60 days of completion of the initial review under subsection (j)(7) including determination of eligibility, submission of recommendation to the Secretary and completion of the certification decision. Each element in the determination process is based upon the requirements of the Act and the eligibility standards determined by the Minority and Female Business Enterprise Council, and therefore must be satisfied before an applicant can be certified. Each standard must be answered completely before another one is considered. If a firm fails to meet one of the eligibility standards, no further consideration shall be given to the application and the certification shall be denied or a certified firm shall be decertified, and notified of the appeal process.

- 11) First Test

A business which has annual gross sales for its most recent fiscal year of less than \$14 million is eligible for the program. A business with gross sales of \$14 million or more in its most recent fiscal year is eligible to participate in the program if the business can show that if it were to receive a particular contract or subcontract there would be a significant impact on employment of minority or female individuals or in the use of minority or female owned subcontractors or suppliers. For the impact to be significant in terms of employment, the business would have to hire new employees with a full time equivalence to 50% of their work force and at least 51% of those new hires must

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be minority or female individuals. For the impact to be significant in terms of use of subcontractors or suppliers, the business must direct 75% of the value of the contract to minority or female owned subcontractors or suppliers and agrees to appropriate enforcement mechanisms, such as bonding or damage provisions, the Council will approve award of a contract to such business.

## 12) Second Test

The second test the applicant must meet is whether the firm is owned and controlled by a person who is a citizen or lawful permanent resident of the United States. Proof of citizenship or permanent residency must be confirmed by a birth certificate, naturalization papers, permanent resident status documents, passports or other documents.

## 13) Third Test

A) The third test is whether the applicant firm is owned or controlled by a person who is a minority or female.

B) Documentation such as birth certificates, passports, naturalization papers, Indian rolls, is required, if available, as proof that the owners are in one of the eligible groups (see Section 2 of the Act):

- i) Black - a person having origins in any of the black racial groups in Africa.
- ii) Hispanic - a person of Spanish or Portuguese culture with origins in Mexico, South or Central American or the Caribbean (regardless of race).
- iii) American Indian or Alaskan Native - a person having origins in any of the original people of North America.
- iv) Asian American - a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands.
- v) Female - a person who is a citizen or lawful, permanent resident of the United States, and who is of the female gender.

C) If a person does not have documentary evidence or if it is not sufficient, the Secretary will consider, amongst other evidence submitted, whether the person is identified with or commonly recognized as belonging to an eligible group, has held himself out to be a member of one of the groups, has acted like a member of the community of one of the groups, and would be identified by a person at large as one of the groups.

## 14) Fourth Test

The fourth test which must be met by an applicant is that the firm must be at least fifty-one percent (51%) owned by one or more minority or by one or more females or in the case of a corporation, at least fifty-one percent (51%) of the stock must

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be owned by one or more minority persons or one or more females. The ownership shall be real, substantial and continuing. To determine interest in the firm, as the standards indicate, the committee must look beyond the ownership stated as a matter of form. Real is defined as a bona fide investment in the firm done at arms length and in good faith. Substantial is defined as the investment necessary to initiate a business in light of the type of work to be done, the organization of the concern, and the potential resources of the financial relationship with other businesses. The application should be carefully reviewed to determine:

- A) If the minority or female ownership is 51% or more
  - B) If the minority or female owners obtain ownership by gift or inheritance or make substantial contribution in terms of expertise, money, etc. The contribution is analyzed in such a way as to disclose whether the investment in the firm reflects the asserted ownership interest. The Secretary will consider the following, amongst others, as indicators of insufficient contribution:
    - i) minimal cash outlay or personal investment.
    - ii) a promise or agreement to contribute capital.
    - iii) a note payable to the firm or other owners who are not minority or female.
  - iv) contributions for services rather than capital, except where services are unique, specialized or of a value commensurate with the ownership value of such services.
  - v) no recourse loans where the borrower assumes no liability for repayment upon default.
  - vi) no recourse stock purchases wherein the purchaser assumes no liability upon default of payment other than transaction of shares.
- C) Indicators of insufficient stock transactions include, but are not limited to, the following:
- i) minimal cash outlay or personal investment,
  - ii) a promise or agreement to buy stock,
  - iii) stock issued, but not purchased,
  - iv) stock certificates purchased but not in the possession of the minority or female owner, and
  - v) stock held in trust or as a guardian for a minor.
- D) The minority or female owner must, except in the case of gift or inheritance, provide evidence of payment, monetary or in kind or experience for their share of the ownership. Examples of evidence include but are not limited to cancelled checks, bookkeeping entries, signed agreements. The following items will also be reviewed:
- i) stock certificates,
  - ii) stock transfer ledgers,



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- iii) proof of stock purchases (if any),
- iv) stockholder agreements (if any),
- v) partnership agreements (if any),
- vi) profit sharing agreements (if any),
- vii) buy-out-rights agreements, and
- viii) other related documents.

E) It will be determined if the minority or female owner paid the investment with a loan from a non-minority or male former employer or stockholder. Lack of proof of payment monetary or in kind will result in denial of certification or decertification.

## 15) The Fifth Test

The fifth test the applicant must meet is that the minority or female person be in direct control of the day to day operations of the firm, as well as have the power to make major decisions on management, policy, fiscal, and operational matters. To make the determination the following items will be reviewed for evidence of non-minority or male control:

A) Articles of incorporation will be reviewed to determine whether the minority or female owner was involved at the time of incorporation and in what way. If the minority or female owner was not involved at the time of incorporation, the time when he or she became involved in the firm and the manner in which it was done will be determined.

B) Corporate By-Laws will be reviewed to determine:

- i) the duties of the directors and officers who occupy these positions,
- ii) the voting rights of the shareholders, and
- iii) any restrictive language which may affect the minority or female stockholder's voting rights.

C) Stock options/shareholders agreements which if exercised, will dilute or eliminate minority or female control.

D) Does the minority or female make decisions independently?

E) Review of resumes should determine whether the minorities or females have sufficient background including education and training for responsibilities assigned. However, no minimum educational or training requirements are imposed.

F) The following will be determined:

- i) the minority or female owner continues to work for a non-minority firm. If so, what is the relationship of the firm to the applicant firm?
- ii) Who in the firm negotiates contracts loans, prepares estimates and makes other management and supervisory decisions?

## 16) Notification of Approval

When the Secretary has determined that all conditions of this Part have been met, the Secretary will notify the applicant by letter that such approval is made. This approval is for a period

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of one year from the date of the letter and may be renewed in accordance with subsection (j)(20). Such approval may be rescinded at any time within the year if it is determined that the applicant no longer satisfies the eligibility standards for a MBE/FBE. At this time the applicant is entered into the state's MBE/FBE Directory and the Division file as a certified MBE/FBE.

## 17) Notification of Denial

When the Secretary determines that the applicant firm does not meet the requirements of this Part and the Act, the Secretary shall send a letter by certified mail to the applicant setting forth the rationale for the determination, inviting the applicant to provide additional information in the areas of concern and advising the applicant of the review process. The Secretary shall remove the applicant from the list of certified vendors.

## 18) Review and Reconsideration

A) The Secretary shall inform the applicant of the decision within six months of receipt of the request for reconsideration. If the Secretary fails to inform the applicant within the six month period, the reconsideration request will be considered denied. If the decision is not favorable to the applicant or if no decisions is rendered within the six month period, the Secretary shall inform the applicant of additional reviews that are available.

B) The applicant may request that the Council's Certification Committee, made up of at least five parties appointed by the Council's chair, review the reconsideration decision of the Secretary. This request must be submitted to the Secretary in writing and must be actually received by the Secretary no later than 45 days after applicant received the Secretary's decision. The request must state why applicant believes the Secretary's decision is wrong, must address all points raised in the Secretary's decision and must include any supporting documentation.

C) Upon receipt of the request for review, the Secretary shall contact the Council's Certification Committee, inform them of the request, and establish a date and time to meet and review relevant information. The Secretary will attempt to schedule the meeting between 15 and 30 days after receipt of the request for review. The meeting shall be held in Springfield or Chicago unless the Committee agrees to meet at some other location. The applicant will be informed of the meeting schedule by letter mailed at least 10 days prior to the meeting date.

D) Prior to the meeting the Secretary shall provide each Committee member with a copy of the request for review and of the Secretary's file on the matter. In addition, the Secretary shall prepare and submit to the Committee a draft response to the points raised in the request for review.

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Each Committee member shall review the files prior to the meeting. Any Committee member may ask questions of the Secretary and the Secretary shall ensure that the questions and answers are provided to each Committee member.

- E) Only the applicant, the applicant's representative, the Secretary, the Secretary's necessary assistants, the Committee members and necessary witnesses may be present. Although the applicant may have an attorney or other representative assist at the meeting, applicant must be present if any representative is present and applicant must respond to questions of the Committee. The meeting shall be conducted in an informal manner within these procedures and all information obtained shall be considered.

- F) The Committee Chair shall call the meeting to order, shall announce the matter at issue and explain how the meeting will be conducted. Each party in attendance shall be identified. The Chair shall briefly restate the reasons given for the Secretary's decision and open the floor to the applicant.

- G) The applicant may make an opening statement but must respond to each of the reasons given in the Secretary's decision. The applicant may call and question any witnesses. The Committee may ask questions of the applicant, the Secretary or any other person present. The Secretary may comment at any time and when applicant is finished the Secretary may call any witnesses. Both applicant and Secretary may make closing statements.

- H) After listening to the applicant and the Secretary, the Committee shall dismiss all persons present. The Committee shall meet in private to discuss the matter and shall make a decision from information obtained from the meeting. The decision will be based upon majority vote of the Committee.

- I) If the decision is favorable to the applicant, the Committee shall inform the Secretary. The Secretary will place the applicant on the list of certified vendors. The Secretary shall notify the applicant, the Committee and the Council of this action.

- J) If the decision is adverse to the applicant, the Committee shall inform the Secretary. The Secretary shall notify the applicant and the Council of this action. The applicant shall also be informed of the Committee's reasons and told of the next review procedure. Notice to the applicant shall be by certified mail.

- K) The applicant may ask that full Council review an adverse decision of the Certification Committee. The request must be submitted to the Secretary in writing and must actually be received by the Secretary no later than 15 days after applicant received the Committee's decision. This request

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must state why applicant believes the Committee's decision is wrong, must address all points raised in the Committee's decision and must include any supporting documentation.

- L) The Secretary shall provide each Council member with a copy of the second request and a copy of the Secretary's file on the matter for review. In addition, the Secretary shall prepare and submit to the Council a draft response to the points raised in the second request for review. The Secretary shall consult with the Committee prior to submitting the draft.

- M) The Council shall consider the second request at the next regularly scheduled Council meeting provided that the second request was received by the Secretary at least 21 days prior to the Council meeting. If received after that time the matter will be considered at the next following Council meeting. The applicant will be told of the location, date and time of the meeting.

- N) The Council shall consider only the written information provided or produced by the applicant, the Certification Committee and the Secretary. The Council may, on its own, request that the applicant address the Council or respond to specific questions. Although applicant may have an attorney or other representative assist at the meeting, the applicant must be available to respond to Council questions. The Council will allow the applicant to address the Council if such request is made as part of the second request.

- O) After reviewing all information obtained, the Council shall vote to uphold the Committee's decision, overturn the Committee's decision or have the matter sent back to the Committee for reconsideration with instructions from the Council.

- P) If the decision is favorable to the applicant, the Council shall inform the Secretary. The Secretary shall place the applicant on the list of certified vendors. The Secretary shall inform the applicant.

- Q) If the decision is adverse to the applicant, the Council shall inform the Secretary. The Secretary shall notify the applicant.

- R) If the decision is to send the matter back to the Committee, the process shall continue from that point until resolved at the Committee or Council level.

- S) For purposes of this level of subsection, all notices shall be evidenced by certified mail receipt and/or an entry in the certification log maintained by the Minority and Female Business Enterprise Division.

## 19) Decertification

- A) A firm that is certified (either self or full) may have that status challenged by the State or some third-party.

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- B) Upon receipt of information which questions the validity of a MBE or FBE certification, the Secretary shall conduct an investigation which may include on-site or telephone interviews, review of existing records submitted pursuant to subsection (j)(5)(B) or collection and examination of new records to supplement, explain or clarify records previously submitted.
- C) If the investigation results in a finding that the firm is not or no longer eligible for MBE or FBE status, the Secretary shall notify the firm that it is decertified. The review and reconsideration procedures found in subsection (j)(18) are available to the firm that is given a decertification letter. After decertification the applicant may not apply for readmission to the program until one year has passed since the date of decertification. A certification of the applicant by another entity shall not be accepted during the one year period following decertification.
- 20) Recertification Process
- A) Forty-five days prior to expiration of a certification the Division staff will identify the firm and mail certified with return receipt an application for Certification as a Minority Business Enterprise/Female Business Enterprise. A cover letter will advise the firm to complete and return the application prior to the 15th day before the expiration of the current certification. Firms that fail to meet this deadline will be decertified.
- B) If the applicant submits the material 15 days before the expiration of the current certification, the original certification shall remain in effect until the Secretary completes the recertification process.
- C) Upon receipt of the recertification application the Division staff will review it for changes which affect eligibility under the Act or this Part.
- D) If no such changes have occurred, the Secretary will grant recertification. If changes in the business give rise to questions regarding eligibility, the Secretary will notify the firm requesting clarification and/or additional information.
- E) When all questions of eligibility have been clarified, the Secretary will issue a new certification good for a period of one year.
- F) If the Secretary determines that the firm is not eligible, a denial letter will be sent and the firm is eligible to initiate the appeal process.
- k) Minority and Female-Owned Business List
- 1) The Council shall maintain a list of businesses that have been certified as minority or female-owned businesses. This list

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- shall be made available to all procuring agencies.
- 2) Any lists of minority or female-owned business maintained by procuring agencies shall be forwarded to the Council.
- 1) Change of Status
- 1) Any contract awarded under a set-aside may not be assigned to another vendor without permission of the Secretary.
- 2) Should a vendor who received a contract under the set-aside cease to qualify as minority or female-owned during contract performance because of subsequent business transfer, reorganization or other similar actions, the procuring agency may cancel the contract immediately without penalty to the State.
- 3) Any change of the minority and female business status of a certified minority and female business shall be reported to the Council by both the vendor and the procuring agency.
- m) Penalty to Vendor
- The following penalties may be assessed in accordance with the Minority and Female Business Enterprise Act.
- 1) Refusal to supply proof or additional proof of status when claiming minority or female status shall result in suspension from participation in sheltered market programs for a period not to exceed one year.
- 2) Refusal to supply additional proof of status pursuant to subsections (j)(4) and (j)(6) above after receiving a contract under a set-aside shall result in suspension from receiving any additional State contracts for a period of one year and if in the State's interest, cancellation of existing set-aside contracts without penalty to the State. In determining whether to cancel an existing set-aside contract, the State shall consider the cost of utilizing another vendor, availability of another vendor, delivery time and other such factors.
- 3) Accepting a contract under any sheltered market procurement when the vendor does not qualify as a minority or female-owned business pursuant to subsections (i)(4) and (i)(6) above shall result in suspension from all State bidding and contracting for a period of one year. If it is in the State's interest the contract may be cancelled immediately without penalty to the state. In determining whether it is in the State's interest to cancel an existing set-aside contract, the State shall consider the cost of utilizing another vendor, the availability of another vendor, delivery time and other such factors. In addition, if the vendor knowingly misrepresented its status the amount of profit applicable to amounts paid to the vendor shall be withheld from any amounts owed to the vendor. If the amount owed the vendor is insufficient to off-set profits the vendor shall be liable to pay back to the State any balance thereof. The profit rate shall be deemed 20% unless a lesser or greater amount can be conclusively proved.
- 4) Governing boards of State colleges and universities may establish



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rules governing penalties.

- n) If the Secretary finds a business in violation of the Minority and Female Business Enterprise Act or of this Part, the Secretary shall report such violation to the Illinois Attorney General. Any such violation found by any State agency or any person should be reported to the Secretary as soon as practicable after the finding.

o) Agency Compliance

- 1) Each agency, other than the governing boards of State colleges and universities, shall submit a compliance plan annually. The Council shall establish the format and timetable for submission of the plan. The Council shall approve the plan if it meets the requirements of this Part and the Minority and Female Business Enterprise Act.

- 2) The governing boards of State colleges and universities shall submit an annual report identifying by university and by campus their total appropriation, expenditures by major object code, expenditures with minority and female owned businesses broken down by major object code, expenditures with minority and female owned businesses broken down by major object code, expenditures with minority and female owned businesses broken down by ethnicity, and the names and addresses of minority and female business receiving contracts or subcontracts. The annual report shall also identify any significant accomplishments relating to the program.

- 3) The Council on its own motion or upon request of a procuring agency shall recommend ways in which the procuring agency may reach its goal. Upon finding by the Council that a procuring agency's compliance plan, as presently adopted or implemented, is insufficient to reach the agency goal, the Council shall recommend ways in which the agency can reach its goal. Such recommendations shall include but not be limited to the following (See Act, Section 2):

- A) assurances of stronger and better focused solicitation efforts to obtain more minority and female owned businesses as potential sources of supply;
- B) division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of minority and female owned businesses;
- C) elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of minority and female owned businesses;
- D) identification of specific proposed contracts as particularly attractive or appropriate for participation by minority and female owned business, such identification to result from and be coupled with efforts to subparagraphs (i) through (iii);
- E) implementation of those regulations established for the use of the sheltered market process.

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- 4) If the compliance plans or quarterly reports indicate the agency goal will not be reached, the Council will request the agency head to appear before the Council and explain the agency's non-compliance. If the Council determines the agency is not making a serious effort to reach the goal, the Council will then prepare a report for submission to the Governor with recommendations for remedial action.

p) Professional and Artistic Contract Reporting

Professional and artistic contracts, which must be reported to the Council pursuant to Section 6a of the Act, shall be reported as follows:

- 1) Notice that a professional or artistic contract has been entered into or that the agency or university intends to enter into one shall be given to the Council on the same day that the contractor or first potential contractor is contacted. Notice may be hand delivered or given by fax.

- 2) The notice shall include the agency name and address; contact person; contract reference number; date bid or proposal was first available; return dates and opening dates; term of the contract; services to be provided; special requirements; and dollar value. Notice should be given on the form available from the Department.

Department of Central Management Services

Minority and Female Business Enterprise Office

William G. Stratton Building, Room 801

Springfield IL 62706

- 3) If the professional or artistic contract is advertised in the Official State Newspaper in accordance with Section 4 of the Illinois Purchasing Act, reporting as described above is not required.

Section 1.2220 Criteria for Small Business (Recodified)

Section 1.2225 Sheltered Workshops for the Disabled

a) Contracting Goal

The Department of Central Management Services shall promote the procurement of goods and services from qualified sheltered workshops for the disabled.

b) Set-Aside and Promotion

- 1) The Department will determine categories of goods and those services under the procurement jurisdiction of the Department which may be accomplished by sheltered workshops for the disabled. Each procuring agency must contact DMS to determine whether a particular procurement should be set-aside for sheltered workshops. The Set-aside designation may be for current or future procurements either on a specific or general need basis. A set-aside may last indefinitely or for a stated period of time.

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- 2) For services not under the jurisdiction of DCMS, agencies are encouraged to utilize the services of sheltered workshops for the disabled.

## c) Sheltered Workshop List

The Department shall maintain a list of all qualified sheltered workshops and shall provide that list to interested State agencies.

## d) Bids and Pricing Approval

- 1) Competitive bidding is not required prior to contracting with a sheltered workshop but prices must be reasonable. The Department of Central Management Services should be contacted when using this procedure to ensure proper handling. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar goods for services, the policy of the Act (Section 7-1 of the Illinois Purchasing Act) to promote procurements from sheltered workshops and other such relevant factors.

- 2) The State Use Committee must approve contracts for reasonableness of price if:

- A) the good or service would ordinarily be subject to bid, or  
B) the good or services is bid and the sheltered workshop is selected even though not the lowest responsible bidder.

- 3) State Use Committee approval is not required if:

- A) the contract does not exceed the bid limit and no bidding was conducted, or  
B) the contract is let to the sheltered workshop as low bidder on a competitive bid.

- 4) When Committee approval is required it will be given or denied in an expeditious manner so as not to disrupt procurement activities. Consideration will be at quarterly meetings or through special telephone meetings conducted between regular meetings.

## e) Criteria for Sheltered Workshops for the Disabled

Sheltered Workshops for the Disabled are qualified if the following requirements are met:

- 1) complies with Illinois laws governing private not-for-profit organizations,  
2) is certified as a sheltered workshop by the Wage and Hour Division of the U.S. Department of Labor, and  
3) meets the standards developed by the Illinois Department of Rehabilitation Services for rehabilitation facilities (See 89 Ill. Adm. Code 530).

## Section 1.2230 Required Use (Recodified)

## Section 1.2235 Procurement from Vendors with Supported Employees

- a) Authority. State agencies may procure goods and services from a

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"qualified vendor with an approved supported employment workforce" (SEV) without having to seek competitive bids and may award to a SEV in a competitive procurement even if the SEV is not the low bidder in accordance with the following requirements.

## b)

Requirements to Exercise Authority

- 1) Procurements may be made from only those vendors on the SEV list maintained by the Department of Central Management Services (CMS).

- 2) For goods or services under the procurement jurisdiction of CMS, including those delegated by CMS, procuring agencies shall notify CMS/Bureau of Support Services of their intent to utilize a SEV, and CMS must approve such action before a procurement is begun or contract awarded. CMS shall approve provided such action is in conformance with the Illinois Purchasing Act [30 ILCS 505], State Paper Purchasing Act [30 ILCS 5510], State Printing Contracts Act [30 ILCS 515] and Standard Procurement Rules [44 Ill. Adm. Code 1].

- 3) For all goods and services which would have to be bid but for the authorization found in Section 8.5 of the Illinois Purchasing Act [30 ILCS 505/8.5] or where the procuring agency chooses a SEV when not the lowest responsible bidder meeting specifications, the procuring agency must obtain approval of the State Use Committee that the price is a fair market price.

- 4) A fair market price will be determined by reference to past prices paid by the procuring agency and any known current pricing available to the procuring agency (each of which must be submitted to the State Use Committee), and the policy to promote SEVs as found in Section 8.5 of the Illinois Purchasing Act [30 ILCS 505/8.5]. A fair market price is not necessarily the lowest price that may be available.

## c) Requirements of SEVs

- 1) SEVs must comply with Illinois laws governing private for-profit enterprises.

- 2) SEVs must certify that no less than 5%, nor more than 20%, of all employed individuals meet the definition of supported employees and are approved as such by the Illinois Department of Rehabilitation Services (DORS).

- A) Certification shall be made, prior to any contract under these provisions, showing the total number of employees and the numbers of all actively employed supported employees.

- B) On an ongoing basis, each SEV with an approved contract shall provide quarterly reports in the manner and format required by the State Use Committee.

- C) The percent of all employees that are supported employees can be calculated in one of two ways:

- i) The number of supported employees divided by the total of all employees,  
ii) The number of supported employees in

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non-administrative positions divided by the total of all employees in non-administrative positions. The method of calculation shall be noted on the certification to be submitted.

3) A SEV must provide necessary supports to its supported employees.  
A) Necessary supports are defined as those supports which are identified by DORS as required to enable that employee to continue and maintain employment.

B) The program of necessary supports which has been identified to the State Use Division by DORS must be documented and available for review, verification, and/or audit under the conditions of the Freedom of Information Act, at any time for any reason.

4) A SEV must provide its supported employees with an integrated work setting. An integrated work setting is one in which no segregated work or recreational space exists for, or is encouraged to be used by, supported employees.

5) SEVs must assure that at least 50% of the work expended to produce the goods and services to be sold to the State is provided by supported employees. The method of calculating the percent of work expended on a State contract must be explained in detail on the Certification, and may be calculated in one of the following ways:

A) The percent of hours expended on the State contract by supported employees must equal at least 50% of all hours expended, or

B) The percent of pieces produced by supported employees must equal at least 50% of all pieces produced on the State contract, or

C) The percent of wages (including all benefits) paid to supported employees must equal at least 50% of all wages (including benefits) paid to all employees engaged in the State contract.

6) SEVs must assure that personal interactions of a supported employment worker in, or associated with, the workplace are with employees of the workplace who are not necessarily supported employees. Any contractor who obtains a contract under this law must certify that a workplace is provided which is conducive to integration of interpersonal relations between supported and non-supported employees.

7) SEVs must have a completed Bidders Application Form on file with the Department of Central Management Services.

8) SEVs must report to CMS any contract with State Agencies on a quarterly basis.

d) Monitoring

Requirements of these rules are subject to monitoring, verification, on-site inspection by appropriate personnel, and/or audit of production and personnel records specific to a contract which might

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be obtained under the Act.

## Section 1.2240 Withdrawal of Set-Aside (Recodified)

Section 1.2250 Small Construction Business Advance Payment Set-Aside (Repealed)

## SUBPART V: JOINT PROCUREMENT AGREEMENTS

## Section 1.2300 General

In an effort to make the procurement process more efficient, State and other governmental units may agree to utilize each others procurement contracts. Agreements between State agencies with procurement authority and other governmental units with taxing authority are governed by this Part and "An Act authorizing certain governmental units to purchase personal property, supplies and services jointly (Ill. Rev. Stat. 1981, ch. 85, pars. 1601 et seq.).

## Section 1.2310 State Use of Other Contracts

State procuring agencies may utilize procurement contracts established by other authorized State agencies or units of government:

- a) if the contract was established by sealed bid or sealed proposal, or
- b) if not required by the Illinois Purchasing Act to be bid, and
- c) if the price is reasonable,
- d) if an existing contract of the Procuring Agency would not be violated, and
- e) if allowed by the vendor, and
- f) if necessary State contract terms can be added, and
- g) if State legal requirements are otherwise followed.

## Section 1.2320 Use of State Contracts

Units of local or federal government may utilize contracts established by State agencies with procurement authority:

- a) if the contract was established by sealed bid or sealed proposal, or
- b) if not required to be bid by local or federal requirements, and
- c) if allowed by the vendor.

## Section 1.2330 No Agency Relationship

In any joint procurement situation, the agency establishing the contract does not become the procurement agency for the other. The ordering unit must issue its own purchase order, accept its own deliveries and make its own payments.

## Section 1.2340 Obligations of Participating Governmental Units



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If governmental units wish to participate in joint purchasing, involving contracts established by the Department of Central Management Services, several provisions must be established in the interest of maintaining good vendor relations and confidence in the program. This will result in better prices, services and delivery. There are:

- a) Legal authority must exist for governmental unit to make purchases from contracts issued by the State of Illinois. Official action must have been taken by the governing body of the unit authorizing its purchasing officials to participate in such a program.
- b) A copy of the ordinance or resolution passed by the governing body of the governmental unit must be sent to the Department of Central Management Services. The official action shall be binding upon the governmental unit until such time as it is withdrawn in writing.
- c) The governmental unit shall make all purchases under the state contracts for public use only. Purchases through these contracts for the personal use or consumption by any individual, public employee or official are prohibited.
- d) All items delivered under contracts awarded by the Department of Central Management Services should be inspected immediately for compliance with the contract specifications. Governmental units should seek replacement of any items not meeting specifications. Failure of supplies to comply should be called to the immediate attention of the Department of Central Management Services.

## Section 1.2350 Centralized Contracts - Estimated Quantities

- a) There are certain centralized contracts for estimated quantities which contain a price extension clause permitting political subdivisions to participate therein. When this clause is contained in the contract, the political subdivision, having previously filed a copy of their ordinance or resolution with the Department of Central Management Services, may use the contract by placing an order directly with the contractor, referring to the state purchase order number. A copy of such an order must also be sent to the Department of Central Management Services for statistical purposes. This data is of extreme value in estimating quantities for future bid invitations.
- b) Political subdivisions using these contracts must comply with the following provisions:
  - 1) The state purchase order number as indicated in the "Notice of Awards" must be shown.
  - 2) The purchase order must contain a complete description of the item; item number; brand and/or model number; unit of measure; unit price and extension.
  - 3) Purchase Orders should not be issued for less than the minimum quantities shown on the "Notice of Awards". A violation of this requirement results in loss of bidders and higher prices to the State and other participating governmental units on future contracts. Vendors are not required to deviate from the terms of

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their contract. Violations of this requirement by governmental units may be sufficient cause for the State to remove the unit from active participation in joint purchasing.

- 4) Governmental units should read the "Notice of Awards" carefully as it may pertain to catalogs and price lists. In some instances these are furnished by suppliers on request and in other instances suppliers are not required to furnish them but loan copies may be secured by contacting the Procurement Services Division. Every effort is being made to keep supplier costs at a minimum so government can enjoy the lowest price possible.

## Section 1.2360 Centralized Contracts - Definite Quantities

- a) Certain items such as foods, ammunition and highway salt, are purchased under definite quantity type of contracts. If interested in such items or other items not covered under the estimated quantity contracts, contact should be made with the Department of Central Management Services by phone.
- b) If the requirements are received after the bid invitation has been issued or if the quantities are too small for centralized purchase or do not lend themselves to joint purchasing, the State will return the requisitions to the governmental units.
- c) Governmental units must consider the following factors prior to filing requisitions for definite quantities:
  - 1) No bids should subsequently be solicited, covering the same items, by any governmental unit filling a requisition. The State issues an award based on the requirements covered by requisitions and this quantity must be ordered regardless of whether or not lower prices may be offered locally. The State does not take bids to obtain estimated prices. Withdrawal from participation after solicitation for bids has been made by the State will not be permitted except in very unusual cases. The practices of withdrawing requisitions could destroy the good faith of the State's bid and might lead to price manipulation with State prices used to "beat down local prices". Such a practice would be detrimental to the interest and integrity of the contracts and to the State's entire purchasing program.
  - 2) Any governmental unit having an existing contract shall complete that contract before participating in joint purchasing.
  - 3) Overlapping time period must be identified in the joint purchase requisition so there will be no misunderstanding as to whether or not existing commitments will be honored or as to the date a future commitment will begin.
  - 4) It should be clearly understood that the governmental unit has delegated its authority to purchase items covered by requisitions and that the resulting award will be made in exactly the same manner as if the requisitions had been submitted by a State agency.

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- 5) Specifications established in the bid invitation shall be accepted.
- 6) It must be understood that consideration cannot be given to boundaries of governmental units. It shall be agreed that the location of the vendor will not be a factor in determining the award except as may be established by state law.
- 7) When centralized contracts are for definite quantities or for specific requirements, the units are required to purchase these items from the successful bidder. A bilateral obligation must exist for the successful bidder to sell and deliver and for the buyers to buy. An award cannot be treated by any governmental unit as a price umbrella under which it can maneuver and bargain.
- 8) Orders shall be placed with the supplier directly by the unit, using its own purchase order forms. A copy of the purchase order must also be sent to the Department of Central Management Services. This copy will be used for statistical purposes and will serve as notice that the governmental unit has complied with the bid action.
- 9) All items delivered under contracts awarded by the State should be inspected immediately for compliance with the contract specifications. The Department of Central Management Services, Purchasing Division, should be notified at once if any of the items deviate from specifications.
- 10) In the event a dispute arises between the governmental unit and successful bidder, it shall be resolved by the disputing parties. In exceptional cases, however, the State may offer its services in the resolution of a dispute.
- 11) Governmental unit for which purchase is made shall accept responsibility for direct payment to the vendor within thirty days after receipt of goods.
- 12) An initial supply of joint purchasing requisitions will be supplied to the governmental unit at the time it is placed on the automated mailing list. Additional copies will be supplied by the State of Illinois upon request.

SUBPART W: MISCELLANEOUS

## Section 1.2400 Inspection and Audits

Bidder agrees that the State may inspect bidder's plant to ensure conformance with specifications, delivery schedule, working conditions and other relevant considerations. Bidder's books and records pertaining to work done and payments received pursuant to a particular contract will be available for inspection by the State for a period of three years following the end of the contract.

## Section 1.2410 No Rights Conferred

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Receipt of an Invitation for Bids or submission of a bid confers no rights to receive an award nor obligates the State in any manner.

## Section 1.2420 Government Furnished Property

If the State provides any property to the bidder in furtherance of the contract, such property shall remain the property of the State but may be consumed by the bidder if necessary to complete the contract. Bidder will issue a receipt for the property and will be responsible for its safekeeping and return of unused property to the State.

## Section 1.2430 Attempt to Influence Award

No person on a bidder's list or who submits or intends to submit a bid shall give or offer to give, directly or indirectly, any money, article, or other thing of value to any State officer or employee which gift is intended in any manner to influence the award or administration of a State contract. Violation of this provision will result in suspension from bidding and may result in debarment.

## Section 1.2440 Collusive Bids

No person shall agree with another to restrain the competitive procurement process by fixing prices, agreeing not to submit bids or by any other means. If it appears that there is a reasonable basis for believing such an agreement exists, the Procuring Officer shall immediately contact the Attorney General. If the low price appears to have been arrived at by collusion, award will be suspended until the Attorney General notifies the Procuring Officer of the appropriate action.

## Section 1.2450 Identical Bids

Every State agency which obtains two or more identical bids shall inform the Attorney General of such facts, in writing within 30 days following the disposition of all bids received in response to an invitation, whether by the awarding of contracts or other action, in such form and manner as prescribed by the Attorney General.

## Section 1.2460 Proprietary Information

Any information submitted by the contract awardee is considered public. Information, other than price information, labeled proprietary which is submitted by an unsuccessful bidder will be held confidential.

## Section 1.2470 Severability

If any provision of this Part or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Part which

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can be given effect without such invalid provision or application.

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## NOTICE OF PROPOSED RULES

1) Heading of the Part: Standard Procurement

2) Code Citation: 44 Ill. Adm. Code 1

3) Section Numbers: Proposed Action:

1.01	New
1.05	New
1.08	New
1.10	New
1.15	New
1.25	New
1.30	New
1.525	New
1.1005	New
1.1010	New
1.1030	New
1.1040	New
1.1050	New
1.1060	New
1.1070	New
1.1075	New
1.1510	New
1.1525	New
1.1550	New
1.1560	New
1.1570	New
1.1580	New
1.1590	New
1.2005	New
1.2010	New
1.2012	New
1.2015	New
1.2020	New
1.2025	New
1.2030	New
1.2035	New
1.2036	New
1.2037	New
1.2038	New
1.2040	New
1.2043	New
1.2044	New
1.2045	New
1.2046	New
1.2047	New
1.2050	New
1.2055	New
1.2060	New



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1.2560 New  
 1.2570 New  
 1.2800 New  
 1.3005 New  
 1.4005 New  
 1.4505 New  
 1.4510 New  
 1.4530 New  
 1.4535 New  
 1.4540 New  
 1.4545 New  
 1.4570 New  
 1.5013 New  
 1.5015 New  
 1.5020 New  
 1.5030 New  
 1.5035 New  
 1.5310 New  
 1.5510 New  
 1.5520 New  
 1.5530 New  
 1.5540 New  
 1.5550 New  
 1.6010 New  
 1.6500 New  
 1.6510 New  
 1.6520 New  
 1.6530 New  
 1.6535 New  
 1.7000 New  
 1.7010 New  
 1.7015 New  
 1.7020 New  
 1.7025 New  
 1.7030 New

4) Statutory Authority: 30 ILCS 500 and 30 ILCS 525

5) A Complete Description of the Subjects and Issues Involved: The proposed rules would replace the current procurement rules found at 44 Ill. Adm. Code 1 with a new set of rules to reflect the requirements of the new Illinois Procurement Code. The new rules describe rulemaking and procurement authority; the various methods of source selection, including the use of Invitations for Bids and Requests for Proposals and a special procedure for processing professional service procurements; type and duration of contracts; preferences for small business and sheltered workshops for the disabled; and various other elements of the procurement process.

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6) Will this rulemaking replace any emergency rulemaking currently in effect?  
 No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No. However, rules are also being proposed to amend the rules implementing the Business Enterprise For Minorities, Females and Persons with Disabilities Act [30 ILCS 575] and to amend real estate leasing rules [44 Ill. Adm. Code 5000].

10) Statement of Statewide Policy Objectives: Proposed rules contain a Section for joint purchase of supplies and services that would affect local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days of the date of this publication to:

Stephen W. Seiple  
 720 Stratton Office Building  
 Springfield IL 62706  
 217/782-9669

All written comments will be considered. Those received by June 18, 1998 will be considered before the rules are adopted under emergency procedures.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: All are affected in circumstances where the State would purchase from them. Small business will be interested in the small business preference Section. Small municipalities will be interested in the joint purchasing Section. Not-for-profits will be interested in the State use Section.

B) Reporting, bookkeeping or other procedures required for compliance: Vendors would have to provide directory type information and information regarding the supplies or services they provide if they want to be placed on the State's bid list.

C) Types of professional skills necessary for compliance: None. We are particularly interested in receiving comments from small businesses, small municipalities and not-for-profit entities. Small businesses, small municipalities and not-for-profit entities are encouraged to

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT  
SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS  
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 1  
STANDARD PROCUREMENT

SUBPART A: GENERAL

Section	Title
1.01	Policy
1.05	Purpose and Implementation of This Part
1.08	Application
1.10	Definition of Terms Used in This Part
1.15	Property Rights
1.25	Constitutional Officers, and Legislative and Judicial Branches
1.30	

SUBPART B: PROCUREMENT RULES

Section	Rules
1.525	

SUBPART C: PROCUREMENT AUTHORITY

Section	
1.1005	Exercise of Procurement Authority
1.1010	Appointment of State Purchasing Officer
1.1030	Associate Procurement Officers
1.1040	Central Procurement Authority of the CPO
1.1050	Procurement Authority of the SPO; Limitations
1.1060	Delegation
1.1070	Toll Highway Authority
1.1075	Department of Natural Resources

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section	
1.1510	Illinois Procurement Bulletin
1.1525	Bulletin Content
1.1550	Official State Newspaper
1.1560	Supplemental Notice
1.1570	Error in Notice
1.1580	Direct Solicitation
1.1590	Retention of Bulletin Information

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

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comment.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: the law on which these rules are based was not signed until February 6, 1998.

The full text of the Proposed Rules begins on the next page.

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## NOTICE OF PROPOSED RULES

- Section  
1.2005 General Provisions  
1.2010 Competitive Sealed Bidding  
1.2012 Multi-Step Sealed Bidding  
1.2015 Competitive Sealed Proposals  
1.2020 Small Purchases  
1.2025 Sole Economically Feasible Source Procurement  
1.2030 Emergency Procurements  
1.2035 Competitive Selection Procedures for Professional and Artistic Services  
1.2036 Other Methods of Source Selection  
1.2037 Tie Bids and Proposals  
1.2038 Mistakes  
1.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

## SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

- Section  
1.2043 Suppliers  
1.2044 Vendor List/Required Use  
1.2045 Prequalification  
1.2046 Responsibility
- SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

- Section  
1.2047 Security Requirements

## SUBPART H: SPECIFICATIONS AND SAMPLES

- Section  
1.2050 Specifications and Samples

## SUBPART I: CONTRACT TYPE

- Section  
1.2055 Types of Contracts

## SUBPART J: DURATION OF CONTRACTS

- Section  
1.2060 Duration of Contracts - General

## SUBPART K: CONTRACT MATTERS

- Section  
1.2560 Prevailing Wage  
1.2570 Equal Employment Opportunity; Affirmative Action

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## SUBPART L: CONTRACT PRICING

- Section  
1.2800 All Costs Included
- SUBPART M: CONSTRUCTION AND CONSTRUCTION RELATED PROFESSIONAL SERVICES

- Section  
1.3005 Construction and Construction Related Professional Services

## SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

- Section  
1.4005 Real Property Leases and Capital Improvement Leases

## SUBPART O: PREFERENCES

- Section  
1.4505 Procurement Preferences  
1.4510 Resident Bidder Preference  
1.4530 Correctional Industries  
1.4535 Sheltered Workshops for the Disabled  
1.4540 Gas Mileage  
1.4545 Small Business  
1.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

## SUBPART P: ETHICS

- Section  
1.5013 Conflicts of Interest  
1.5015 Negotiations for Future Employment  
1.5020 Exemptions  
1.5030 Revolving Door  
1.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

## SUBPART Q: CONCESSIONS

- Section  
1.5310 Concessions

## SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

- Section  
1.5510 Complaints Against Vendors  
1.5520 Suspension  
1.5530 Resolution of Contract Controversies



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1.5540 Violation of Law or Rule  
1.5550 Protests

## SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

Section  
1.6010 Supply Management and Dispositions

## SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section  
1.6500 General  
1.6510 No Agency Relationship  
1.6520 Obligations of Participating Governmental Units  
1.6530 Centralized Contracts - Estimated Quantities  
1.6535 Centralized Contracts - Definite Quantities

## SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section  
1.7000 Severability  
1.7010 Government Furnished Property  
1.7015 Inspections  
1.7020 Records and Audits  
1.7025 Written Determinations  
1.7030 No Waiver of Sovereign Immunity

AUTHORITY: The Illinois Procurement Code [30 ILCS 500] (see P.A. 90-572).

SOURCE: Adopted at 7 Ill. Reg. 100, effective December 17, 1982; amended at 7 Ill. Reg. 13481, effective October 4, 1983; amended at 7 Ill. Reg. 13844, effective October 12, 1983; codified at 8 Ill. Reg. 14941; Sections 1.2210, 1.2220, 1.2230, 1.2240 recodified to Section 1.2210 at 9 Ill. Reg. 6118; amended at 10 Ill. Reg. 923, effective January 2, 1986; amended at 10 Ill. Reg. 18707, effective October 22, 1986; amended at 11 Ill. Reg. 7225, effective April 6, 1987; amended at 11 Ill. Reg. 7595, effective April 14, 1987; amended at 13 Ill. Reg. 17804, effective November 7, 1989; emergency amendment at 16 Ill. Reg. 13118, effective August 7, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 600, effective January 5, 1993; amended at 17 Ill. Reg. 14576, effective August 27, 1993; amended at 20 Ill. Reg. 9015, effective July 1, 1996; old Part repealed and new Part adopted at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL

## Section 1.01 Title

This Part may be cited as the Standard Procurement Rules.

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## Section 1.05 Policy

All State procurements shall be accomplished in the most economical, expeditious and commercially reasonable manner that is in accordance with statute, this Part and other applicable rules.

## Section 1.08 Purpose and Implementation of This Part

- a) This Part establishes rules necessary and appropriate to implement the authorities granted by the Illinois Procurement Code (Code) [30 ILCS 500] relating to the procurement, management, and control of supplies, services, real estate leases and related capital improvement, concessions and, as applicable, construction, and necessary rulemaking under the authority of the Code.
- b) This Part applies to all procurements and procurement rulemaking under the jurisdiction of the Chief Procurement Officer (CPO) and any State Purchasing Officer (SPO) appointed by the CPO. For the purposes of this Part, any reference to CPO means the Director of the Department of Central Management Services unless the context indicates otherwise.
- c) This Part is intended to make policies, procedures and guidelines for procurement of necessary supplies and services by State agencies uniform and consistent among and within State agencies in order to facilitate participation in State procurements, encourage competition, and ensure that procurements are conducted in a fair and open manner. Implementation by and within State agencies shall be consistent with this Part. Operational interpretations are to be made in a flexible manner designed to secure the State's needs and protect the State's interests.

## Section 1.10 Application

- a) The Code and this Part apply to those procurements for which the vendors were first solicited on or after July 1, 1998.
- b) Procurements for which vendors were first solicited on or before June 30, 1998, shall be conducted pursuant to legal requirements in effect at the time of the solicitation. The terms and conditions and the rights and obligations under contracts resulting from such procurements shall not be impaired.
- c) A solicitation occurs on or before June 30, 1998, as follows:
  - 1) When advertising was required in the Official State Newspaper, the first advertisement must run no later than June 30, 1998.
  - 2) When advertising was not required:
    - A) if the procurement was advertised, even though advertising was not required, the first advertisement must have run no later than June 30, 1998;
    - B) if the procurement was by direct solicitation by mail, the solicitation must have been postmarked or placed in the control of a private carrier no later than June 30, 1998;

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- C) if the procurement was by direct solicitation by fax, the fax must show a transmission date no later than June 30, 1998;
- D) if the procurement was solicited in-person or by telephone, the solicitation must have occurred no later than June 30, 1998, and the State officer or employee who made the solicitation must state in writing when the procurement was discussed and must name the party with whom the discussion took place.
- 3) In all circumstances, the solicitations must be for the procurement of particular needs. A general discussion to determine if there is any interest on the part of a State agency in the supplies or services of a vendor or vendors, or on the part of a vendor or vendors in providing the supplies or services, is not considered a solicitation.
- d) The Code and this Part do not apply to:
- 1) contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Code (for purposes of this subsection (d)(1), "governmental bodies" includes the State universities and their governing boards);
  - 2) grants;
  - 3) purchase of care;
  - 4) hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual;
  - 5) collective bargaining contracts;
  - 6) purchase of real estate; or
  - 7) contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor. [30 ILCS 500/1-10] Anticipated litigation is that which a State agency may prosecute or defend before a court or administrative body and actions necessary to prepare for and conduct the effective legal prosecution or defense of litigation, including, but not limited to, contracting for expert witnesses.

## Section 1.15 Definition of Terms Used in This Part

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined below, and each term listed in this Section shall have the meaning set forth below unless its use clearly requires a different meaning. Terms may be defined in

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particular Sections for use in that Section.

"Bid" - The response to an Invitation for Bids.

"Bidder" - Any person who submits a bid.

"Brand Name or Equal Specification" - A specification that uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet State requirements, and that allows the submission of equivalent products.

"Brand Name Specification" - A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Code" - The Illinois Procurement Code [30 ILCS 500].

"Concession" - The right or a lease to engage in a certain activity for profit on the lessor's premises (e.g., a refreshment or parking concession).

"Contract" - A contract may be in written or oral form. The term contract as used in the Code and this Part does not include: supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, bonds issued by or on behalf of any State agency, or contracts, other than for "concessions", that the State agency signs, but has no financial obligation to the other parties.

"Contractor" or "Vendor" - The terms contractor and vendor are used interchangeably for purposes of the Code and this Part.

"Day" - Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"Items" - Anything that may be procured under this Code.

"Invitation for Bids" or "IFB" - The process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids. [30 ILCS 500/1-15.45]

"Procurement Officer" - The Chief Procurement Officer (CPO) or appropriate State Purchasing Officer (SPO) who conducts the particular procurement, or a designee of either.

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"Proposal" - The response to a Request for Proposals.

"Purchase of Care" - A contract with a person for the furnishing of medical, educational, psychiatric, vocational, rehabilitation, social, or human services directly to a recipient of a State aid program. [30 ILCS 500/1-15.68] Purchase of care includes services provided or arranged to be provided by a vendor in conjunction with the purchase of care. Such services may include administrative and management services, enrollment, health education, grievance procedures, case management, utilization review, quality assurance, peer review, or marketing. Recipient of a State aid program includes applicants for a State aid program. Services provided to a recipient include those that are a necessary adjunct to the provision of the State aid program services (e.g., services of an HMO or other managed care entity, case management, utilization review, quality management, and administrative services). Services provided to an applicant for a State aid program necessary to determine eligibility for the program are included within this definition.

"Qualified Products List" - An approved list of supplies described by model or catalog numbers that, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

"Request for Proposals" or "RFP" - The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals. [30 ILCS 500/1-15.75]

"Requesting Agency" - The agency that requests that the CPO conduct a procurement for its use. All procurements reserved to the CPO that have not been delegated must be initiated by a purchase request.

"Responsive Bidder" - A person who has submitted a bid that conforms in all material respects to the invitation for bids. [30 ILCS 500/1-85]

"Responsible Offeror" - A person who has submitted an offer that conforms in all material respects to the Request for Proposals.

"Services" - The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance. [30 ILCS 500/1-15.90]

"Specification" - Any description of the physical, functional, or performance characteristics, or of the nature of a supply or service. A specification includes, as appropriate, requirements for inspecting,

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testing, or preparing a supply or service item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

"Specification for a Common or General Use Item" - A specification that has been developed and approved for repeated use in procurements.

"State agency" - Includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the constitution or statute, of the executive branch of State government and does include colleges, universities, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Northern Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Board of Higher Education. However, this term does not apply to public employee retirement systems or investment boards that are subject to fiduciary duties imposed by the Illinois Pension Code or to the University of Illinois Foundation. "State agency" does not include units of local government, school districts, community colleges under the Public Community College Act, and the Illinois Comprehensive Health Insurance Board. [30 ILCS 500/1-15.100]

"Supplies" - All personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies. [30 ILCS 500/1-15.110]

"Unsolicited Offer" - Any offer other than one submitted in response to a solicitation.

## Section 1.25 Property Rights

Receipt of an Invitation for Bids or other procurement document, or submission of any response thereto, or other offer, confers no right to receive an award or contract, nor does it obligate the State in any manner.

## Section 1.30 Constitutional Officers, and Legislative and Judicial Branches

Upon request by a constitutional officer or by a representative of the legislative or judicial branches, the CPO may, subject to staff availability and time constraints, conduct procurements on behalf of those constitutional officers or branches. These procurements will be conducted in accordance with the Code and this Part unless the requesting entity delegates its authority, in which case the requirements applicable to such entity may be followed.

SUBPART B: PROCUREMENT RULES



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## Section 1.525 Rules

- a) Procurement under the jurisdiction of the CPO or an appointed SPO shall be conducted in accordance with the Code and this Part except as provided in this Section.
- b) Agencies with rules regarding procurement on file with the Secretary of State as of the effective date of this Part shall, within 30 days after the effective date of this Part, submit those rules to the CPO for review and approval. If the CPO does not approve those rules, the agency shall begin rulemaking to repeal or modify them in accordance with the Standard Procurement Rules and the Code within 30 days after the CPO's decision.
- c) An agency that has procurement needs not adequately addressed by the Standard Procurement Rules may inform the CPO and provide a draft of proposed rules to address those procurement needs, including a statement explaining why particular program needs of the agency require a rule different from or in addition to the Standard Procurement Rules. In lieu of approving rules proposed by the agency, the CPO may elect to meet the agency's need by amending these Standard Procurement Rules.
- d) All procurement rules proposed by an agency governed by the Code must be approved by the CPO prior to submission for publication as a proposed rule and again prior to adoption after all comments have been addressed.
- e) An agency with procurement rules approved by the CPO shall review those rules in conjunction with the Illinois Procurement Code and shall report to the CPO if changes are needed in their rules. The CPO shall inform each agency with procurement rules approved by the CPO of changes proposed to these Standard Procurement Rules that will require changes to their rules. In each such case, the CPO or SPO shall commence appropriate rulemaking.
- f) All proposed rules will be submitted to the Procurement Policy Board (Board) before or during the public comment period established under the Administrative Procedure Act. Rulemaking, except for emergency rulemaking, shall be scheduled so as to allow the Board at least 30 days to provide comments.
- g) Emergency rules will be submitted to the Board for review and comment with as much notice as is reasonably possible. A copy of the adopted emergency rules shall be provided to the Board. The Board shall be given opportunity to comment on rules proposed to replace the emergency rules.

## SUBPART C: PROCUREMENT AUTHORITY

## Section 1.1005 Exercise of Procurement Authority

- a) The SPOs appointed by the CPO shall conduct all procurements under the jurisdiction of the CPO subject to the limitations set by the CPO.

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Those limitations are provided or authorized by this Part.

- b) Procurements contemplating any form of agreement including, but not limited to, outright purchase, installment and lease purchase, lease, rental and license, are included.

## Section 1.1010 Appointment of State Purchasing Officer

- a) The executive head of each State agency shall, after consultation with the CPO, recommend to the CPO one of the agency's officers or employees for appointment as SPO. Upon appointment by the CPO of the recommended individual and approval by the executive head of the State agency, the named individual shall be an SPO for that agency.
- b) In the absence of a recommended, approved, and appointed SPO, the CPO may exercise all procurement authority on behalf of the agency. Should the executive head fail to recommend an acceptable SPO candidate, the CPO may appoint the executive head of the State agency as SPO.

## Section 1.1030 Associate Procurement Officers

Any duly appointed Associate Procurement Officer shall conduct procurements in accordance with the Code, this Part and any restrictions imposed by the Governor in the appointment of the Associate Procurement Officer.

## Section 1.1040 Central Procurement Authority of the CPO

- a) The CPO may establish master, scheduled or open-ended contracts for any supplies and services, and those contracts shall be utilized by State agencies in accordance with the terms of those contracts for the procurement of supplies and services covered by those contracts.
- b) The following items will be procured by the CPO as the central purchasing agency. These items may be procured by an SPO only as provided in this Subpart or in a letter of delegation from the CPO authorizing the procurement activity.
  - 1) Supplies
    - A) all exceeding \$10,000; and
    - B) regardless of price:
      - i) Employee benefits authorized under the State Employees Group Insurance Act or the Personnel Code;
      - ii) Financing of any procurement;
      - iii) Paper, stationery, envelopes;
      - iv) Postage stamps;
      - v) Property, casualty, liability and other insurance, and bonds;
      - vi) Telecommunications equipment and software on the network side of the point of presence;
      - vii) Utilities for buildings managed by the CPO;
      - viii) Vehicles.

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## 2) Services

- A) Electronic data processing services including, but not limited to, consulting and professional and artistic services, exceeding \$10,000;
  - B) Telecommunications related services including, but not limited to, consulting, professional and artistic services, repairs, moves, adds and changes, regardless of price; and
  - C) Vehicles related services, including but not limited to, fleet management and repairs, regardless of price.
- 3) Real Estate
- Leases of real estate and any capital improvements to the leased real estate for the use of State agencies.

## c) Central Procurement Procedures

- 1) Purchase Requests
 

For purchases that are reserved to the CPO, each agency must initiate the procurement process through submission of a purchase request to the CPO. The CPO shall designate the format and requirements for submission.
- 2) Chief Procurement Officer's Authority to Reject
 

When the CPO, after consultation with the requesting agency, decides that processing the purchase request is clearly not in the best interest of the State, or that further review is needed, the CPO shall return such purchase request to the requesting agency. A statement of the reasons for its return shall accompany the returned request. Examples of reasons a purchase request may be returned include, but are not limited to:

  - A) the request can be satisfied from existing State inventory or State contracts;
  - B) the request exceeds agency needs;
  - C) the needs requested could be procured more economically at a different time without detriment to the State; or
  - D) the quality requested is inconsistent with State standards and usage.
- 3) Determination of Contractual Terms and Conditions
 

The CPO has authority to determine the terms and conditions of solicitations and contracts. The CPO will consult with the requesting agency if the agency requests special terms and conditions.
- d) The CPO may, after consultation with and notice to any affected SPO, use central procurement procedures for items in addition to those listed in this Section upon its determination that such procedures are likely to result in significant efficiencies or economies.
- e) The CPO and the CPOs of the construction agencies will determine whether a supply item or group of supply items shall be included as a part of, or procured separately from, any contract for construction.
- f) The CPO, as Director of the Department of Central Management Services, has additional duties and responsibilities established in statute apart from the Code, and nothing in this Part shall be interpreted to

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Limit those other statutory duties and responsibilities.

## Section 1.1050 Procurement Authority of the SPO; Limitations

- a) SPO's Authority
 

The SPOs appointed by the CPO shall have authority to make all procurements for the use of the SPO's agency that are not under the central procurement authority of the CPO, another CPO, or a construction agency. Such procurements shall be conducted in accordance with applicable statute, this Part and any limitations set by the CPO.
- b) Emergency Procurements
 

Whenever practicable, SPOs shall contact the CPO for instructions for meeting needs in emergency situations for each procurement under the central procurement authority of the CPO. SPOs shall utilize existing contracts established by the CPO whenever practicable.
- c) Professional and Artistic Services
 

Each SPO shall have authority, subject to the supervision of the CPO, to procure those professional and artistic services that are not under the central procurement authority of the CPO. Supervision primarily consists of ensuring SPO compliance with the procurement procedures established by the Code and this Part for procuring these services, but also includes without limitation the authority to review and require modifications to specifications; schedule for opening proposals; evaluation criteria; and awards when deemed necessary to protect the State's interests and ensure compliance with the Code and this Part.
- d) Correctional Industries
 

Each SPO shall have authority to procure supplies and services from the Department of Correction's Correctional Industries program.
- e) CPO Contracts
 

SPOs do not have the authority to procure supplies or services for which the CPO establishes master, scheduled or open-ended contracts, except as permitted in the terms of those contracts.
- f) Department of Central Management Services
 

SPOs do not have authority to procure supplies or services available from any of the program operations of the Department of Central Management Services. This includes, but is not limited to:

  - 1) Paper and Printing Warehouse;
  - 2) Division of Vehicles system; and
  - 3) Central Computing Facility.
- g) Review by CPO
 

Any procurement related activity of an SPO may be reviewed by the CPO, and the SPO shall supply information requested by the CPO. Should the CPO determine that the SPO's activities were not in accordance with the requirements of the Code, this Part or good procurement practices, or is otherwise not in the State's best interest, the CPO may consult with the SPO or executive head of the agency and, if necessary, may

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place additional limits on the SPO's authority. These additional limitations will be communicated in the form of written notice sent by the CPO to the SPO and the executive head of the agency.

**Section 1.1060 Delegation**

- a) The CPO may delegate to any SPO the CPO's authority to conduct specific procurements or classes of procurements for the use of that agency. The CPO may also delegate to any SPO the CPO's authority to conduct on behalf of the CPO specific procurements or classes of procurements for multiple agency use. An SPO may request that the CPO delegate authority to that SPO.
- b) The CPO and each SPO (with approval of the SPO's executive head) may appoint designees to assist in the performance of their respective duties and responsibilities.
- c) Any exercise of delegated authority shall be in accordance with the Code and this Part.
- d) Delegations shall be in writing and shall specify:
  - 1) the activity or function authorized;
  - 2) any limits or restrictions on the exercise of the delegate authority;
  - 3) whether the authority may be further delegated;
  - 4) the duration of the delegation; and
  - 5) any reporting requirements.

**Section 1.1070 Toll Highway Authority**

The CPO delegates to the Illinois Toll Highway Authority and its SPO authority to procure construction and construction-related services for the construction and operation of the toll highways under the jurisdiction of the Illinois Toll Highway Authority. For those activities, the SPO shall follow the construction rules promulgated by the Illinois Department of Transportation and the Capital Development Board, as applicable. Rules issued by the SPO shall be consistent with rules promulgated by the CPO designated under the Code for construction agencies. The CPO may delegate to the CPO of the Department of Transportation authority to publish in its volume of the Bulletin all notices that must be published relating to the procurement of construction and construction-related services by the Illinois Toll Highway Authority.

**Section 1.1075 Department of Natural Resources**

The CPO delegates to the Department of Natural Resources and its SPO authority to procure construction and construction-related services for the construction activities under the jurisdiction of the Department of Natural Resources. For those activities, the SPO shall follow the construction rules promulgated by the Illinois Department of Transportation and the Capital Development Board, as applicable. Rules issued by the SPO shall be consistent with rules promulgated by the CPO designated under the Code for construction agencies. The CPO may

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delegate to the CPO of the Department of Transportation authority to publish in its volume of the Bulletin all notices that must be published relating to the procurement of construction and construction-related services by the Department of Natural Resources.

**SUBPART D: PUBLICIZING PROCUREMENT ACTIONS****Section 1.1510 Illinois Procurement Bulletin**

- a) The Illinois Procurement Bulletin consists of several volumes, one for each of the Chief Procurement Officers designated in the Code, one for any appointed Associate Procurement Officer, and one for each other State entity that must publish notices under the Code. Each volume will contain procurement information relating to procurements under the jurisdiction of the applicable Chief or Associate Procurement Officer (APO). Each volume shall be available in electronic form.
- b) The Bulletin may be accessed via instructions available from the CPO.
- c) Access to the detailed information contained in the Bulletin may be subject to an annual subscription fee as set by the CPO, not to exceed publication and distribution costs.
- d) To accommodate those who are not interested in subscribing to the Bulletin, a free subscription will be made available to interested public libraries in Illinois.

**Section 1.1525 Bulletin Content**

- a) The information in each volume of the Bulletin will be updated at least once per month and may be updated as frequently as daily. The format, lead-time and other administrative requirements for submitting notices to the Bulletin will be provided in writing by the CPO to each SPO.
- b) Notice of each procurement request governed by the Code that must be conducted by competitive sealed bidding, including multi-step sealed bidding, competitive sealed proposals, or competitive selection procedures, shall be placed in the Bulletin. The notice shall contain at least the following information:
  - 1) the name of the procuring agency (and using agency, if different);
  - 2) a brief purchase description;
  - 3) a procurement reference number, if used;
  - 4) the date the procurement is first offered (procurements that require notice shall not be distributed to vendors prior to the date the notice is first published in the Bulletin);
  - 5) the date, time, and location for making submissions;
  - 6) the method of source selection;
  - 7) the name of the Procurement Officer in charge; and
  - 8) instructions on how to obtain detailed information.
- c) Notice of each contract awarded that was subject of a notice in



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subsection (b) above shall be placed in the Bulletin. This notice shall contain at least the following information:

- 1) the information published in subsection (b) above;
- 2) the name of the vendor selected for award;
- 3) the contract price;
- 4) the number of unsuccessful vendors; and
- 5) other disclosures required to be published in the Bulletin.

d) The following information regarding emergency procurements shall be published in the Bulletin within 14 days after date of performance under the emergency contract:

- 1) name of the procuring agency (and using agency, if different);
  - 2) name of the vendor selected for award;
  - 3) brief description of what the vendor will do or provide;
  - 4) total price (if only an estimate is known, it shall be published, but a subsequent notice repeating all required information shall be published when the final amount is known);
  - 5) reasons for using the emergency method of source selection; and
  - 6) name of the Procurement Officer in charge.
- e) The following information in regard to sole source procurements shall be published in the Bulletin at least 14 days prior to entering into the contract with the designated sole source vendor:
- 1) name of the procuring agency (or using agency, if different);
  - 2) name of the vendor;
  - 3) brief description of what the vendor will do or provide; and
  - 4) name of the Procurement Officer in charge.

## Section 1.1550 Official State Newspaper

a) The Department of Central Management Services will select, by Competitive Sealed Bid, a secular newspaper of general circulation printed in English, to be known as the Official State Newspaper. The term of the appointment and the requirements will be specified by the Department in the Invitation for Bids.

b) Upon direction of the CPO, this newspaper may be used as a substitute for the Bulletin in the event the Bulletin cannot be published.

## Section 1.1560 Supplemental Notice

Publication in the Bulletin may be supplemented by publication elsewhere at the discretion of the purchasing agency. Examples include publication in:

- a) the Official State Newspaper;
- b) a newspaper of general circulation;
- c) a newspaper of local circulation in the area pertinent to the procurement;
- d) industry media; or
- e) agency "WEB" pages.

## Section 1.1570 Error in Notice

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When a required publication contains an error, the error may be corrected by a single notice published in the Bulletin.

## Section 1.1580 Direct Solicitation

In addition to giving notice in the Bulletin, agencies may directly contact prospective vendors by providing copies of Invitations for Bids, Requests for Proposals, or other procurement information. Direct solicitation may be oral or in writing, but care should be taken to ensure that all vendors solicited in this manner receive the same information as provided to others.

## Section 1.1590 Retention of Bulletin Information

- a) The information published pursuant to Section 1.1525(b) should be retained in electronic or paper form until the information required to be published under Section 1.1525(c) for that procurement is published.
- b) Other information published in the Bulletin shall be retained in electronic or paper form for a period of one year after first publication.

## SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

## Section 1.2005 General Provisions

- a) Late Bids or Proposals, Late Withdrawals and Late Modifications
  - 1) Definition. Any bid or proposal received after the time and date for receipt, or at other than the specified location even if on time, is late. Any withdrawal or modification of a bid or proposal received after the time and date set for opening of bids or proposals is late. If received at other than the specified location, the submission is late.
  - 2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless the Procurement Officer, and not a designee, determines it would have been timely but for the action or inaction of State personnel directly serving the procurement activity (e.g., providing the wrong address).
  - 3) Records. Records shall be made and, in accordance with the State Records Act [5 ILCS 160], kept for each late bid or proposal, late modification, or late withdrawal.
  - 4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.
- b) Extension of Time
  - 1) The Procurement Officer may, prior to the date or time for submitting or modifying a bid or proposal, extend the date or time for the convenience of the State.
  - 2) After opening bids or proposals, the Procurement Officer may request bidders or offerors to extend the time during which the

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State may accept the bids or proposals, provided that, with regard to bids, no other change is permitted.

- c) Electronic and Facsimile Submissions
  - 1) The Invitation for Bids or Request for Proposals may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the IFB or RFP.
  - 2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the purchasing agency at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.
  - 3) Fax submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.
- d) Intent to Submit
 

The Invitation for Bids or the Request for Proposals may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the IFB or RFP. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.
- e) Only One Bid or Proposal Received
 

If only one bid or proposal is received, an award may be made to the single bidder or offeror if the Procurement Officer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise:

  - 1) new bids or offers may be solicited, including under sole source (Section 1.2025) or emergency (Section 1.2030) procedures; or
  - 2) the procurement may be canceled.
- f) Alternate or Multiple Bids or Proposals
  - 1) Alternate bids or proposals may be accepted if:
    - A) permitted by the solicitation and in accordance with instructions in the solicitation; or
    - B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 1.2025 (Sole Source Procurement) of this Part; or
    - C) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the specifications.
  - 2) Multiple bids or proposals may be accepted if:
    - A) permitted by the solicitation and submitted in accordance with instructions in the solicitation; or
    - B) only one vendor responded, then, one or more of the

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submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.

- 3) If a vendor clearly indicates a primary submission among alternate or multiple bids or proposals, then that primary submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.
- g) Multiple Items
 

An Invitation for Bids or Request for Proposals may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.
- h) "All or None" Bids or Proposals
 

All or none bids or proposals may be accepted if the evaluation shows an all or none award to be the lowest cost or best value of those submitted.
- i) Conditioning Bids or Proposals Upon Other Awards
 

Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:

  - 1) be rejected unless the vendor removes the condition; or
  - 2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFBs or RFPs provided the agency need not delay procurement actions to accommodate the vendor's all or none condition.
- j) Unsolicited Offers
  - 1) Processing of Unsolicited Offers. The Procurement Officer may consider unsolicited offers. If the SPO of an agency that receives an unsolicited offer is not authorized to enter into a contract for the supplies or services offered, the SPO of such agency may forward the offer to the CPO, who may consider such unsolicited offer.
  - 2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.
  - 3) Award. An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part except if that unsolicited offer meets the requirements for a small (Section 1.2020), sole source (Section 1.2025), or emergency (Section 1.2030) procurement.
  - k) Clarification of Bids and Proposals
 

The Procurement Officer may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to materially change its bid or proposal in response to a request for clarification. A clarification is not an opportunity to make changes or for submission of best and finals as authorized elsewhere in this Part.

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- 1) Extension of Time on Indefinite Quantity Contracts  
The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the Procurement Officer determines in writing that it is not practical to award another contract at the time of such extension.
- m) Increase in Quantity on Definite Quantity Contracts
  - 1) The quantity that may be ordered from a definite quantity contract without additional notice and competition may be increased by up to 20% provided the Procurement Officer determines that separate bidding for the additional quantity is not likely to achieve lower pricing. A particular procurement may specify a different percentage.
  - 2) The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the applicable small purchase (Section 1.2020) threshold.
- n) Subsequent Purchase Request  
If, within 30 days after making an award to a particular vendor pursuant to a competitive sealed bid on behalf of an agency, the CPO receives a purchase request from another agency for the same item and for the same or lesser quantity, the CPO may contract with that vendor on the same terms and conditions, including price, without additional notice and competition, if such contract is acceptable to the vendor.
- o) Assignment, Novation or Change of Name
  - 1) Assignment. No State contract is transferable, or otherwise assignable, without the written consent of the Procurement Officer, provided, however, that a vendor may assign money receivable under a contract after due notice to the State. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the State.
  - 2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:
    - A) the transferee assumes all of the transferor's obligations;
    - B) the transferee meets all requirements for contracting with the State;
    - C) the transferor waives all rights under the contract as against the State; and
    - D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the State, furnish a satisfactory performance bond.
  - 3) Change of Name. A vendor may submit a written request to change the name in which it holds a contract with the State. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.
  - 4) Reports. All change of name or novation agreements under this

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- subsection (o) shall be reported to the CPO within 30 days after the date the agreement becomes effective so that the bid list may be updated.
- p) Contracting for Installment Purchase Payments, Including Interest  
Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].
- q) Use of Source Selection Method that is Not Required  
If a purchasing agency uses a method of source selection that it is not, by law, required to use (e.g., use of a competitive sealed bid for a small purchase), the purchasing agency is not bound to strict compliance with the Code and rules governing the method of source selection used.
- r) Vendor Signature  
A bid or proposal submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the Procurement Officer within the time specified by that officer.
- s) Stringing or planning procurements to avoid use of competitive procedures (stringing) is prohibited.
- t) Confidential Data  
Vendors must clearly identify any information that is exempt from the disclosure requirement of the Illinois Freedom of Information Act [5 ILCS 140] and must request special handling of that material.

## Section 1.2010 Competitive Sealed Bidding

- a) Application  
Competitive sealed bidding is the required method of source selection except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.
- b) The Invitation for Bids
  - 1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.
  - 2) Content. The Invitation for Bids shall include, at a minimum, the following:
    - A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, and the maximum time for bid acceptance by the State;
    - B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and
    - C) the contract terms and conditions, including warranty and



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bonding or other security requirements, as applicable.

3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.

## c) Bidding Time

Bidding time is the period of time between the date of notice or distribution of the Invitation for Bids and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by the Code or this Part.

## d) Bidder Submissions

1) Bid Form. The Invitation for Bids may include a form or format for submitting bids. If a form or format is specified, vendor shall submit bids as instructed.

## 2) Bid Samples and Descriptive Literature

A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

B) Unsolicited bid samples or descriptive literature are submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the State.

## e) Public Notice

1) Publication. Every procurement for supplies and services in excess of \$10,000 that must be procured using an Invitation for Bids shall be publicized in the Illinois Procurement Bulletin (see Section 1.1510).

2) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection.

3) Distribution. Invitations for Bids or Notices of the Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall, at a minimum, indicate where Invitations for Bids may be obtained; generally describe what is needed; and indicate the due date for bids. Where appropriate, the Procurement Officer may require payment of a fee or a deposit for supplying the Invitation for Bids.

## f) Pre-Bid Conference

A pre-bid conference may be conducted to enhance understanding of the procurement requirements. The pre-bid conference shall be announced as a part of the Invitation for Bids notice. The conference may be designated as "attendance mandatory" or "attendance optional". The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but

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sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written modification to the Invitation for Bids. Amendments shall be supplied to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the amendment shall be supplied to attendees only.

## g) Amendments to Invitations for Bids

1) Form. Amendments to Invitations for Bids shall be clearly identified and shall reference the portion of the IFB it amends.

2) Distribution. Amendments shall be made available to all prospective bidders known to have received an Invitation for Bids.

3) Timeliness. Amendments shall be made available within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.

## h) Pre-Opening Modification or Withdrawal of Bids

1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening.

2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

## i) Receipt, Opening and Recording of Bids

1) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.

## 2) Opening and Recording

A) Bids and modifications shall be opened publicly at the time, date, and place designated in the Invitation for Bids. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer, shall be recorded and the name of each bidder read aloud or otherwise made available. The name of the witness shall also be recorded at the opening.

B) The winning bid shall be available for public inspection after award, along with the record of each unsuccessful bid.

## j) Bid Evaluation and Award

1) General. The contract is to be awarded to the lowest responsible

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and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids, except as permitted in the Code and this Part. The Invitation for Bids shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids.

2) Responsibility. Responsibility of prospective vendors is covered by Section 1.2046 (Responsibility) of this Part.

3) Responsiveness. A bid must conform in all material respects to the Invitation for Bids.

A) Product or Service Acceptability. The Invitation for Bids shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:

- i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
- ii) examination of such elements as appearance, finish, taste, or feel;
- iii) other examinations to determine whether it conforms with any other purchase description requirements.

B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering that does not meet the acceptability requirements shall be rejected.

4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall be reasonable estimates based upon information the State has available concerning future use and shall provide for the equitable treatment of all bids. Pricing for optional supplies or services, or for renewal terms, may be considered, particularly when the pricing for such items or terms is

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unbalanced when compared to other pricing in the bid.

5) Price Negotiation. Negotiations are permitted with the low bidder to obtain a lower price for the item bid.

k) Documentation of Award

Following award, a record showing the successful bidder shall be made a part of the procurement file.

l) Award to Other Than Low Bidder

1) The Procurement Officer, but not a designee, may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. The name of the bidder selected, pricing, and the reasons for selecting this bidder instead of the low bidder must be published in the Bulletin.

2) This action may be appropriate when the difference in quality or speed of delivery is so great as compared to the difference in price, and considering the needs of the agency, that a best value award is justified. However, if the difference in price is significant, the Procurement Officer may not utilize this provision.

m) Publicizing Award

The successful bidder shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchase limit set in Section 1.2020 (Small Purchases) of this Part, notice of award shall be published in the Bulletin.

## Section 1.2012 Multi-Step Sealed Bidding

a) Definition. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the State, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.

b) Conditions for Use. The multi-step sealed bidding method may be used when it is not practical to prepare initially a definitive purchase description that will be suitable to permit an award based on price. Multi-step sealed bidding may be used when it is considered desirable:

- 1) to invite and evaluate possible diverse technical offers to determine their acceptability to fulfill the purchase description requirements; and
- 2) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.

c) Pre-Bid Conference in Multi-Step Sealed Bidding

Prior to the submission or evaluation of unpriced technical offers, a

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pre-bid conference as contemplated by Section 1.2010(f) (Pre-Bid Conference) may be conducted by the Procurement Officer.

- d) Procedure for Phase One of Multi-Step Sealed Bidding
- 1) Form. Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids in the form required by Section 1.2010 (Competitive Sealed Bidding), except as hereinafter provided. In addition to the requirements set forth in Section 1.2010, the multi-step Invitation for Bids shall state:

- A) that unpriced technical offers are requested;
  - B) whether priced bids are to be submitted at the same time as unpriced technical offers; if they are, such priced bids shall be submitted in a separate sealed envelope;
  - C) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;
  - D) the criteria to be used in the evaluation of the unpriced technical offers;
  - E) that the Procurement Officer may conduct oral or written discussions of the unpriced technical offers;
  - F) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the Invitation for Bids.
- 2) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced technical offers, and they shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the Procurement Officer, a contemplated amendment will significantly change the nature of the procurement, the Invitation for Bids may be canceled in accordance with Section 1.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) of this Part and a new Invitation for Bids issued.
  - 3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be opened in the presence of at least one witness. Such offers shall not be disclosed to unauthorized persons.
  - 4) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:
    - A) acceptable;
    - B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
    - C) unacceptable, in which case the Procurement Officer shall record in writing the basis for finding an offer

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unacceptable, notify the vendor and make it part of the procurement file.

- 5) The Procurement Officer may initiate phase two of the procedure if, in the Procurement Officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the Procurement Officer finds discussion of the technical offers is necessary, the Procurement Officer shall commence discussions of the unpriced technical proposals.
  - 6) Discussion of Unpriced Technical Offers. The Procurement Officer may conduct discussions with any vendor who submits an acceptable or potentially acceptable technical offer. During the course of such discussions, the Procurement Officer shall not disclose any information derived from one unpriced technical offer to any other bidder. Any such bidder may submit supplemental information amending its technical offer at any time until the closing date established by the Procurement Officer. Such submission may be made at the request of the Procurement Officer or upon the bidder's own initiative.
  - 7) Unacceptable Unpriced Technical Offer. When the Procurement Officer determines a bidder's unpriced technical offer to be unacceptable, such offeror shall not be afforded an additional opportunity to supplement its technical offer.
- e) Procedure for Phase Two
- 1) Initiation. Upon the completion of phase one, the Procurement Officer shall either:
    - A) open priced bids submitted in phase one (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or
    - B) if priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.
  - 2) Conduct. Phase two shall be conducted as any other competitive sealed bid procurement except:
    - A) no public notice need be given of this invitation to submit priced bids because such notice was previously given;
    - B) after award, the unpriced technical offer of the successful bidder shall be disclosed as follows: The Procurement Officer shall examine written requests of confidentiality for trade secrets and proprietary data in the technical offer of such bidder to determine the validity of any such requests. If the parties do not agree as to the disclosure of data, the Procurement Officer shall reject the offer. Such technical offer shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data; and
    - C) unpriced technical offers of bidders who are not awarded the contract shall not be open to public inspection.



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## Section 1.2015 Competitive Sealed Proposals

- a) Competitive Sealed Proposals may be used whenever permitted by the Code and as described in this Part.
- b) The Competitive Sealed Proposal method of source selection may be used to procure the following categories:
  - 1) electronic data processing equipment, software, and services;
  - 2) telecommunications equipment, software, and services;
  - 3) consulting services; and
  - 4) employee benefits and management of those benefits.
- c) Competitive Sealed Proposals may be used on a case-by-case basis when it is determined by the Procurement Officer that competitive sealed bidding is either not practicable or advantageous.
  - 1) "Practicable" distinguished from "Advantageous." As used in Section 20-15 (Competitive Sealed Proposals) of the Illinois Procurement Code and in this Section, "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the State's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest. Before a procurement may be conducted by competitive sealed proposals, the Procurement Officer shall determine in writing that competitive sealed bidding is either not practicable or not advantageous to the State.
  - 2) General Discussion
    - A) If competitive sealed bidding is not practicable or is not advantageous, competitive sealed proposals should be used.
    - B) The key element in determining whether use of a proposal is advantageous is the need for flexibility. The competitive sealed proposal method differs from competitive sealed bidding in two important ways:
      - i) it permits discussions with competing offerors and changes in their proposals, including price; and
      - ii) it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract.
    - C) Where evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, where the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or where the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration, use of competitive sealed proposals is the appropriate procurement method.
  - 3) When Competitive Sealed Bidding Is Not Practicable. Competitive sealed bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid

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to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and all other terms and conditions of the Invitation for Bids. Factors to be considered in determining whether competitive sealed bidding is not practicable include:

- A) whether the contract needs to be other than a fixed-price type;
- B) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
- C) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
- D) whether award may need to be based upon a comparative evaluation, as stated in the Request for Proposals, of differing price, quality, and contractual factors in order to determine the most advantageous offering to the State. Quality factors include technical and performance capability and the content of the technical proposal; and
- E) whether the primary consideration in determining award may not be price.
- 4) When Competitive Sealed Bidding Is Not Advantageous. A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to the State, even though practicable, to use competitive sealed bidding. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:
  - A) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State; and
  - B) whether the factors listed in subsection (c)(3) of this Section are desirable, in conducting a procurement, rather than necessary; if they are, then such factors may be used to support a determination that competitive sealed bidding is not advantageous.
- d) Content of the Request for Proposals
 

The Request for Proposals shall be prepared in accordance with Section 1.2010 (Competitive Sealed Bidding), provided that it shall also include:

  - 1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and
  - 2) a statement of when and how price should be submitted.
- e) Receipt and Registration of Proposals
  - 1) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals. Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as

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witness. A record shall be prepared which shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.

- 2) Proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.

## f) Evaluation of Proposals

- 1) Evaluation Factors in the Request for Proposals. The Request for Proposals shall state all of the evaluation factors, including price, and their relative importance.

- 2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Factors not specified in the Request for Proposals shall not be considered. Numerical rating systems may be used but are not required.

- 3) Classifying proposals. For the purpose of conducting discussions, proposals may be initially classified as:

- A) acceptable;
- B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
- C) unacceptable. Offerors whose proposals are unacceptable shall be so notified promptly.

## g) Proposal Discussions with Individual Offerors

- 1) "Offerors" Defined. For the purposes of Section 20-15(f) (Competitive Sealed Proposals, Discussion with Responsible Offerors and Revisions to Proposals) of the Illinois Procurement Code and of this Section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses that submitted unacceptable proposals.

- 2) Purposes of Discussions. Discussions are held to:

- A) promote understanding of the State's requirements and the offerors' proposals; and
- B) facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the Request for Proposals.

- 3) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. If during discussions there is a need for any substantial clarification of, or change to, the Request for Proposals, the Request shall be amended to incorporate such clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.

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- 4) Best and Final Offers. The Procurement Officer may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The Procurement Officer may conduct additional discussions or change the State's requirements and require another submission of best and final offers. The scope of the best and final and the number of vendors allowed to participate shall be defined by the Procurement Officer. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediately previous offer will be construed as its best and final offer.

## h) Award

An award shall be made by the Procurement Officer pursuant to a written determination showing the basis on which the award was found to be most advantageous to the State, based on the factors set forth in the Request for Proposals.

## i) Publicizing Awards

The successful offeror shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. When the award exceeds the small purchase limit set in Section 1.2020 of this Part, notice of award shall be published in the Bulletin.

## Section 1.2020 Small Purchases

## a) Application

- 1) Procurements of \$10,000 or less for supplies or services, other than professional and artistic, and \$30,000 or less for construction may be made using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances.
- 2) Procurements of less than \$20,000 for professional and artistic services and that have a non-renewal term of one year or less may be made using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances.
- 3) The CPO shall announce any change identified by the United States Department of Labor in the Consumer Price Index for All Urban Consumers for the period ending December 31, 1998, and for each year thereafter. That percentage change shall be used to calculate the small purchase maximums that shall be applicable for the fiscal year beginning July 1, 1999. The small purchase maximums shall be likewise recalculated for each July 1 thereafter.
- b) In determining whether a contract is under the limit, the value of the contract for the full term and all optional renewals, determined in good faith, shall be utilized. The stated value of the supplies or services, plus any optional supplies and services, shall be utilized.

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Where the term is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.

- c) If only a unit price or hourly rate is known, the contract shall be considered small and shall have a not to exceed limit applicable to the type of procurement (see subsection (a) above).
- d) If, after signing the contract, the actual cost of completing the contract is determined to exceed \$10,000, and the Procurement Officer determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the Procurement Officer must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.
- e) Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 20-5 of the Illinois Procurement Code.
- f) If there is a repetitive need for small procurements of the same type, the Procurement Officer shall consider issuing a competitive sealed bid or proposal for procurement of those needs.

## Section 1.2025 Sole Economically Feasible Source Procurement

## a) Application

The provisions of this Part apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section 1.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 1.2030 (Emergency Procurements) of this Part.

## b) Conditions for Use of Sole Source Procurement

Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

- 1) where the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;
- 2) where a sole supplier's items are needed for trial use or testing;
- 3) where a sole supplier's item is to be procured for commercial resale;
- 4) where public utility regulated services are to be procured;
- 5) where the item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;
- 6) the procurement of the media for advertising; and
- 7) the procurement of art or entertainment services.

## c) Changes

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Changes to an existing contract that are germane and reasonable in scope and cost in relation to the original contract or program, that are necessary or desirable to complete the contract or program, and that can be best accomplished by the contract holder may be procured under this Section when the Procurement Officer determines that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly indicate that the existing vendor is the sole economically feasible source.

## d) Procurement Officer to Determine

- 1) The determination as to whether a procurement shall be made as a sole source shall be made by the Procurement Officer. Such determination and the basis therefore shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness.
- 2) Any purchase request submitted to the CPO suggesting that a procurement be restricted to one potential vendor shall be accompanied by an explanation as to why no other vendor will be suitable or acceptable to meet the need.

## e) Publication of Sole Source Notice

The Procurement Officer shall publish in the Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.

- 1) If no challenge to this determination is made by a vendor within the 14 day period, the Procurement Officer may execute a contract with that vendor.
- 2) If a challenge is received, the Procurement Officer shall consider the information and shall commence a competitive procurement if the Procurement Officer determines that more than one economically feasible source may be available and the sole source designation is, therefore, not appropriate, unless an emergency situation exists.
- f) Negotiation in Sole Source Procurement  
The Procurement Officer shall conduct negotiations, as appropriate, to reach contract terms, including price, and shall maintain a record of each sole source procurement showing:
  - 1) the vendor's name;
  - 2) the amount and type of the contract;
  - 3) what was procured; and
  - 4) the identification number of the contract file.

## Section 1.2030 Emergency Procurements

## a) Applications

The provisions of this Part apply to every procurement over the small purchase limit set in Section 1.2020 (Small Purchases) of this Part made under emergency, including quick purchase, conditions.

## b) Definition of Emergency Conditions

- 1) A procurement may be made under this Section in situations in



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which:

- A) public health or safety, including the health or safety of any particular person, is threatened;
  - B) immediate repairs are needed to State property to protect against further loss or damage to State property, or to prevent loss or damage to State property;
  - C) immediate action is needed to prevent or minimize serious disruption in State services;
  - D) action is needed to ensure the integrity of State records;
  - E) a supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the State than instituting a competitive procurement under the provisions of this Code for the supplies or services;
  - F) items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;
  - G) equipment or services are necessary in the furtherance of covert activities lawfully conducted by a State agency. Any required disclosures shall be made so as not to jeopardize those covert activities;
  - H) immediate action is necessary to avoid lapsing or loss of federal or donated funds;
  - I) availability of rare items such as books of historical value;
  - J) the procurement is for entertainment;
  - K) extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the State; or
  - L) the need for services to protect or further State interests is immediate and use of other competitive source selection procedures under the Code and this Part cannot be accomplished without significant risk of causing serious disadvantage to the State.
- 2) After Unsuccessful Competitive Sealed Bidding or Proposals or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

- c) Scope of Emergency Conditions  
Emergency procurements shall be limited to the items, quantity and term necessary to meet the emergency need.

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- d) Authority to Make Emergency Procurements  
Authority to make emergency procurements is established in Subpart C. Whenever practical, existing State contracts shall be utilized and, whenever practical, approval by the CPO shall be obtained prior to procuring items reserved to the CPO. The SPO of each agency shall be responsible for making the filings required in Section 20-30 of the Code.
  - e) Source Selection Methods  
Any method of source selection, whether or not identified in this Part, may be used to conduct the procurement in emergency situations. The procedure used shall be selected to assure that the required items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.
  - f) Determination and Record of Emergency Procurement  
1) Determination. The Procurement Officer shall make a written determination stating the basis for an emergency procurement and for the selection of the particular vendor. Such determinations shall be kept in the contract file of the Procurement Officer.  
2) Record. An affidavit of each emergency procurement shall be filed with the CPO and the Auditor General within 10 days after the procurement and shall include the following information:  
    - A) the vendor's name;
    - B) the amount and type of the contract, provided that if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known;
    - C) a description of what the vendor will do or provide;
    - D) the reasons for using the emergency method of source selection.
  - 3) Notice of the emergency procurement shall be published in the Bulletin in accordance with Subpart D of this Part.
- Section 1.2035 Competitive Selection Procedures for Professional and Artistic Services
- a) Application  
    - 1) The provisions of this Section apply to every procurement of professional and artistic services except those subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535].
    - 2) "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 525/1-15.60].
  - b) Professional and artistic services are further defined as follows:  
    - 1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified

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in the Request for Proposals.

2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.

3) "Qualified by technical ability" means the individual who would perform the services must demonstrate a high degree of skill or ability in performing services that are the same, similar or closely related in nature to those specified in the Request for Proposals.

4) An essential element distinguishing professional and artistic services from other services is confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service. These services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional and artistic services contracts. (See Illinois Attorney General Opinion S-256, January 20, 1971.)

5) If the professional or artistic contract is with a firm or other business entity, the individuals whose education, experience and technical ability provided the basis on which the firm or other business entity was selected must meet the qualifications.

6) When a State agency requires services that meet the requirements of this subsection (b), the competitive selection procedures described in this Section must be followed. Services that do not meet the requirements of this Section must be procured in accordance with other methods of source selection authorized by the Code and this Part.

c) The categories of services enumerated below shall be considered and procured as professional and artistic services. With regard to other services, the SPO may determine whether the factors identified in subsection (b), when applied to particular services to be procured, require such services to be procured as professional and artistic under these competitive selection procedures, or as services that are subject to one of the other methods of source selection authorized by the Code and this Part. The following categories are examples of disciplines that would always be professional and artistic services:

- 1) law;
  - 2) accounting;
  - 3) medicine;
  - 4) dentistry; and
  - 5) clinical psychology.
- d) Architect, engineering and land surveying services shall be procured pursuant to the procedures of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535]. Such procurements are not subject to the procedures for other professional services established in the Code or this Part.
- e) Conditions for Use of Competitive Selection Procedures
- Except as authorized under Section 20-25 (Sole Source Procurement) or

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Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of \$20,000 or more. Services less than \$20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 1.2020 (Small Purchases) of this Part.

f) Prequalification. The CPO shall maintain a list of prequalified professional and artistic vendors in accordance with Section 1.2045 of this Part. Persons may amend statements of qualifications at any time by filing a new statement. Failure of a professional and artistic vendor to prequalify shall not be cause for rejection of a proposal provided that the responsive offeror supplies with its proposal all information defined by the prequalification process.

g) Public Notice of Competitive Selection Procedures

1) Notice of the need for professional and artistic services shall be made by the Procurement Officer in the form of a Request for Proposals.

2) Notice shall be given as provided in Section 1.2010 (Competitive Sealed Bidding) of this Part.

3) Notice shall also be distributed to prequalified persons interested in performing the services required by the proposed contract.

h) Request for Proposals

1) Contents. The Request for Proposals shall be in the form specified by the CPO and shall contain at least the following information:

- A) the type of services required;
- B) a description of the work involved;
- C) an estimate of when and for how long the services will be required;
- D) the type of contract to be used;
- E) a date by which proposals for the performance of the services shall be submitted;
- F) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:
  - i) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
  - ii) if deemed relevant by the Procurement Officer, the age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposals;
  - iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
  - iv) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a

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previous period of time, as specified in the Request for Proposals;

v) a plan, giving as much detail as is practical, explaining how the services will be performed;

G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package); and

H) the factors to be used in the evaluation and selection process and their relative importance.

2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the Request for Proposals. Price will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:

A) the plan for performing the required services;

B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;

C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and

D) a record of past performance of similar work.

i) Pre-Proposal Conference

A pre-proposal conference, if appropriate, shall be conducted in accordance with Section 1.2010(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.

j) Delivery, Receipt and Handling of Proposals

1) Proposals shall be submitted to and opened by the CPO in accordance with instructions given by the CPO to the SPO.

2) Public Opening

A) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals.

B) Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.

C) Proposals and modifications shall be opened in a manner designed to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the

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proposals prior to award.

D) Proposals of offerors who are not awarded the contract shall not be open to public inspection.

3) Transmission to SPO. The CPO will forward timely proposals to the SPO of the using agency along with any pertinent information contained in the files of the CPO regarding the vendors who submitted proposals.

4) The CPO may require that the SPO be present at and assist in the opening and registration of proposals and the transportation of proposals to the SPO.

k) Discussions

1) Discussions permissible. The Procurement Officer may conduct discussions with any offeror to:

A) determine in greater detail such offeror's qualifications; and

B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach. The Procurement Officer may allow changes to the proposal based on those discussions.

2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be open to public inspection except as otherwise provided in the contract.

1) Selection of the Best Qualified Offerors

After conclusion of validation of qualifications, evaluation, and discussion, the Procurement Officer shall rank the acceptable offerors in the order of their respective qualifications.

m) Evaluation of Pricing Data

Pricing submitted for all acceptable proposals shall be opened and ranked.

1) If the low price is submitted by the most qualified vendor, the Procurement Officer may award to that vendor.

2) If the price of the most qualified vendor is not low and if it does not exceed \$25,000, the Procurement Officer, but not a designee, may award to that vendor.

3) If the price of the best qualified vendor exceeds \$25,000, the Procurement Officer, but not a designee, must state why a vendor other than the low priced vendor was selected and that determination shall be published in the Bulletin.

n) Negotiation and Award of Contract

1) General. The Procurement Officer shall attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The Procurement Officer may, in the interest of efficiency, negotiate with other



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vendors, while negotiating with the best qualified vendor.

- 2) Elements of Negotiation. At a minimum, contract negotiations shall be directed toward:

- A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;
- B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and
- C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services and the scope, complexity, and nature of such services.

- 3) Successful Negotiation of Contract with Best Qualified Offeror

- A) If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.
- B) Compensation must be determined in writing to be fair and reasonable. Fair and reasonable compensation shall be determined by the Procurement Officer based on the circumstances of the particular procurement, including but not limited to the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of the procurement, and the agency's identified budget.

- 4) Failure to Negotiate Contract with Best Qualified Offeror

- A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore shall be placed in the file. The Procurement Officer shall advise such offeror of the termination of negotiations.
- B) Upon failure to negotiate a contract with the best qualified offeror, the Procurement Officer may enter into negotiations with the next most qualified offeror.

- C) Nothing in this Section shall prohibit the Procurement Officer from making a selection that represents the best value, qualifications, price and other relevant factors established in the request for proposals being considered. The Procurement Officer may, in considering best value, determine the proposal from a fully qualified vendor that submitted the lowest price to be the best value without further evaluation.

- o) The Procurement Officer procuring professional and artistic services, including those under an exception described in subsection (e), shall provide to the CPO the information necessary for publication in the Bulletin.

- p) Notice of Award. Written notice of award shall be public information

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and made a part of the contract file. The CPO shall publish the names of the responsible decision makers of the purchasing agency, the name of the agency, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the next available issue of the Bulletin.

- q) Post Performance Review. The SPO of the using agency shall provide a synopsis of the contract and shall rate the vendor's performance using the form developed by the CPO. A copy of the completed form shall be provided to the CPO.

## Section 1.2036 Other Methods of Source Selection

## a) Split Award

- 1) An award of a definite quantity requirement may be split between bidders or offerors. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required. A split award may be used only when award to more than one bidder or offeror for different amounts of the same item are necessary to obtain the total quantity or the required delivery.

- 2) The Procurement Officer shall make a written determination setting forth the reasons for the split award, which determination shall be made a part of the procurement file.

## b) Multiple Award

- 1) A multiple award is an award of an indefinite quantity contract to more than one bidder or offeror when the State is obligated to order all of its actual requirements from those vendors.

- 2) A multiple award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple award shall be made in accordance with the provisions of Section 1.2010 (Competitive Sealed Bidding), Section 1.2015 (Competitive Sealed Proposals), Section 1.2020 (Small Purchases), and Section 1.2030 (Emergency Procurements), as applicable. Awards shall not be made for the purpose of simply dividing the business or to select products or suppliers to allow for user preference unrelated to utility or economy. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of State agencies.

- 3) The State shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.

- 4) If a multiple award is anticipated, the solicitation shall state this fact as well as the criteria for award.

- 5) In a multiple award situation, one vendor may be designated as the primary recipient of orders. The other awardees may receive orders in the event the primary vendor is unable to deliver or for other reasons as determined by the Procurement Officer.

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## c) Master Contracts

- 1) A master contract contains agreed contractual terms and conditions established for the convenience of the parties to be used in conjunction with a subsequent procurement and processed in accordance with the requirements of the Code and this Part. A master contract is not a procurement. It creates no obligation on the part of the State to procure from the vendor nor does it create an authorization for a State agency to order based on that master contract, except as provided in subsection (c)(2).
- 2) Orders may be placed against master contracts without use of any prescribed method of source selection for convenience of processing small procurements. Agencies with reasonably defined repetitive small needs that, over the course of a fiscal year, are likely to exceed the small purchase amount set in Section 20-20 of the Code and this Part should consider a competitive method of source selection to contract for those repetitive needs.

## d) Auction

Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium.

## e) Non-governmental Joint Purchase

- 1) The CPO may enter into (or authorize one or more SPOs to enter into) an agreement with a person not eligible for the Governmental Joint Purchasing Act for the joint procurement of anything covered by the Code. Any method of source selection may be used and may be modified or adapted to meet the needs of the non-State entity.

- 2) The primary use of this provision shall be to accommodate mutual relationships between the State and not-for-profit groups whose purpose is to conduct programs adjunct to those of the State agency that is party to the contract.

## f) Federal Requirements

The Procurement Officer for any State agency receiving federal aid funds, grants or loans may conduct procurements in accordance with federal requirements that are necessary to receive or maintain those federal aid funds, grants or loans.

## g) Foreign Country Procurement

Procurements to meet the needs of State agency offices located in foreign countries shall comply with the Code and this Part whenever practicable. The SPO shall maintain a record of such action.

## h) Donations

- 1) When a procurement will have the majority of funding from a donation, the terms of which donation require use of particular procurement or contracting procedures, the Procurement Officer may follow those procedures, but shall follow the Code and this Part whenever practicable.

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- 2) Donations may be acknowledged by the donee agency in a manner appropriate to the type of donation and the program activity associated with the donation. Acknowledgment may include, but need not be limited to, public announcement at the event or in donee agency publications, and inviting the donor to attend the program activity associated with the donation.

## Section 1.2037 Tie Bids and Proposals

- a) Tie bids or proposals are those from responsive and responsible vendors that are identical in price or evaluation and represent the low price.
- b) Tie bids or proposals will be treated as follows:

- 1) If the tied vendors include an Illinois resident vendor, the Illinois resident vendor shall be given the award. In all other situations, including if two or more Illinois resident bidders are tied, the decision shall be made in accordance with this subsection (b). "Illinois resident vendor" has the meaning given in Section 1.4510 (Resident Bidder Preference) of this Part.

- 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the State shall be given additional consideration in determining responsibility if the Procurement Officer determines that dealing with a vendor that has knowledge of State requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.

- 3) If there is no significant difference in responsibility, but there is a difference in the quality of the supplies or services offered, the vendor offering the best quality will be accepted.

- 4) If there is no significant difference in responsibility and no difference in quality of the supplies or services offered, the vendor offering the earliest delivery time will be accepted in any case in which the solicitation specified that the needs of the agency require delivery as early as possible.

- 5) If the bids or proposals are equal in every respect, the award shall be made by lot unless the Procurement Officer determines that splitting the award among two or more of the tied bidders is in the best interest of the State. Awards may be split if all affected bidders agree, if splitting is feasible given the type of supplies or services requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.

- c) Record. Each SPO shall provide a report to the CPO on a quarterly

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basis of all procurements on which tie bids or proposals were received. The report shall provide at least the following information:

- 1) the identification number of the solicitation;
- 2) a description of what was procured; and
- 3) a listing of all the bidders and the prices submitted.

## Section 1.2038 Mistakes

- a) General. Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other bidders.
- b) Mistakes Discovered Before Opening. A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.
- c) Confirmation of Mistake. When the Procurement Officer knows or has reason to conclude that a mistake has been made, such officer shall request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the bid or proposal may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.
- d) Mistakes in Bids Discovered After Opening but Before Award. This subsection (d) sets forth procedures to be applied in situations in which mistakes in bids are discovered after the time and date set for bid opening but before award.

- 1) Minor informalities. A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the Invitation for Bids, the correction or waiver of which would not be prejudicial to the State (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The Procurement Officer shall waive such informalities or allow the bidder to correct them depending on which is in the best interest of the State. Examples of minor informalities as to form include the failure of a bidder to:
  - A) return the number of signed bids required by the Invitation for Bids;
  - B) acknowledge receipt of an amendment to the Invitation for Bids, but only if:
    - i) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or
    - ii) the amendment involved had a negligible effect on price, quantity, quality, or delivery.

- 2) Mistakes Where Intended Correct Bid Is Evident. If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended

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correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

- 3) Mistakes Where Intended Correct Bid Is Not Evident. A bidder may be permitted to withdraw a low bid if:
  - A) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
  - B) the bidder submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.

- e) Mistakes in Proposals Discovered After Receipt, but Before Award. This subsection (e) sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.

- 1) During Discussions; Prior to Best and Final Offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake prior to the date set for conclusion of discussions or for receipt of best and final offers.
- 2) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this Section, shall be treated as they are under subsection (d).
- 3) Correction of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:
  - A) the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn; or
  - B) the mistake is not clearly evident on the face of the proposal, but the offeror submits adequate proof that clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other offerors.

- 4) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:
  - A) the mistake is clearly evident on the face of the proposal and the intended correct offer is not;
  - B) the offeror submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or
  - C) the offeror submits adequate proof that clearly and convincingly demonstrates the intended correct offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.



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- f) Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract except where the Procurement Officer finds it would be unconscionable (e.g., if the mistake resulted in a windfall to the State) not to allow the mistake to be corrected.
- g) Determinations Required. When a proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared showing that relief was granted or denied in accordance with this Part. The Procurement Officer shall prepare the determination.

**Section 1.2040 Cancellation of Solicitations; Rejection of Bids or Proposals**

- a) Scope of this Section  
The provisions of this Section shall govern the cancellation of any solicitations whether issued by the State under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.
- b) Policy  
Any solicitation may be canceled when the Procurement Officer believes cancellation to be in the State's best interest. Nothing shall compel the award of a contract.
- c) Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening  
1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.  
2) Prior to opening, a solicitation may be canceled in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest for reasons including, but not limited to:
  - A) the State no longer requires the supplies or services;
  - B) the State no longer can reasonably expect to fund the procurement; or
  - C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.
- 3) When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses that responded to the solicitation.
- 4) The notice of cancellation shall:
  - A) identify the solicitation;
  - B) briefly explain the reason for cancellation; and
  - C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies or services.
- d) Cancellation of Solicitation; Rejection of All Bids or Proposals After Opening

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- 1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest. Such reasons may include, but are not limited to:
  - A) the supplies or services being procured are no longer required;
  - B) ambiguous or otherwise inadequate specifications were part of the solicitation;
  - C) the solicitation did not provide for consideration of all factors of significance to the State;
  - D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
  - E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
  - F) there is reason to question whether the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.
- 2) When the solicitation is canceled or when all bids or proposals are rejected, all vendors who submitted bids or proposals shall be sent a notice upon request informing them of the reasons for the cancellation or rejection.
  - e) Documentation. The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.
  - f) Rejection of Individual Bids or Proposals
    - 1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.
    - 2) Notice in Solicitation. Each solicitation shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the State as provided in this Section.
    - 3) Reasons for Rejection
      - A) Reasons for rejecting a bid or proposal may include, but are not limited to:
        - A) the business that submitted the bid or proposal is nonresponsible as determined under Section 1.2046 (Responsibility) of this Part;
        - B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;
        - C) the proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to meet the announced requirements of the State in some material respect;
        - D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the Invitation

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- b) Inclusion on, or exclusion from, the list shall not be a factor in determining whether a vendor is a responsible vendor.
- c) When vendors are directly solicited by the State, Invitations for Bids and other solicitations will be sent to vendors on the vendor list for supplies or services in question, except in the following cases:
  - 1) The vendor does not sell the particular commodity or equipment.
  - 2) The number of vendors for a procurement classification is of such magnitude that optimum prices may reasonably be expected without soliciting the entire vendor list. The Procurement Officer may, if he/she determines that the best interest of the State would be served, rotate the selection from the list on any equitable basis.
  - 3) The Procurement Officer determines that the best interests of the State will be served by limiting vendors to those in defined geographic areas (example: purchases of ready-mix concrete, perishables, and equipment requiring immediate service).

## Section 1.2045 Prequalification

- a) General
  - 1) An opportunity to prequalify shall be allowed at least one time each fiscal year. The opportunity to prequalify and whether prequalification will be a condition of bidding or being awarded a contract shall be announced in the Bulletin.
  - 2) The fact that a prospective vendor has been prequalified does not necessarily represent a finding of responsibility for a particular procurement.
  - 3) Except in the case of professional and artistic services, distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified.
- b) Professional and Artistic Services
  - 1) When the services are needed on a recurring basis, the CPO shall actively solicit persons engaged in providing such services to submit annual statements of qualifications in a prescribed format that shall include at a minimum the following information:
    - A) technical education and training;
    - B) general or special experience, certifications, licenses, and memberships in professional associations, societies, or boards; and
    - C) an expression of interest in providing a particular professional and artistic service.
  - 2) Categories for prequalification will include, but are not limited to, those listed in Section 1.2035 of this Part.
- c) Qualified Products Lists. Qualified products lists are treated in Section 1.2050 (Specifications and Samples) of this Part.

## Section 1.2046 Responsibility

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- for Bids; or
- E) the proposed price is clearly unreasonable.
- 4) Notice of Rejection. Upon request, unsuccessful bidders or offerors shall be advised of the reasons for rejection.

## SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

## Section 1.2043 Suppliers

- a) An agency with procurement authority may contract with any qualified source of supply, but must procure from the Directed Sources except as permitted by those sources, and must consider the following Special Sources.
  - 1) Directed Sources -- State-Produced Supplies or Services
    - 1) Correctional Industries. The CPO, after consulting with the Department of Corrections, shall determine the type and extent of the preference purchasing agencies shall give to supplies produced or services performed by Correctional Industries. Factors to be considered in determining the preference include, but are not limited to, the ability of Correctional Industries to meet the State's requirements, the price charged and the reason for the Correctional Industries program. This information shall be provided to each SPO.
  - 2) Central Services. Supplies and services available from the program operations of the Department of Central Management Services shall be utilized unless the CPO authorizes procurement from other sources.
- c) Special Sources
  - 1) Prior to any equipment procurement, each agency should consider property available from the State and Federal Surplus Warehouses, which are under the jurisdiction of the Department of Central Management Services. 30 ILCS 605/7a requires that surplus furniture be considered before any purchase of new furniture valued at \$500 or more per piece.
  - 2) Various supplies and services are available from qualified workshops for the disabled and procurement from these workshops is encouraged. Notice and competition is not required pursuant to Section 45-35 of the Code. Information regarding the workshops is available from the Department.
  - 3) Various supplies and services are available from State agencies and other governmental units. These may be procured without notice and competition.

## Section 1.2044 Vendor List/Required Use

- a) The CPO shall maintain a list of vendors interested in doing business with the State. The names and addresses of vendors on the list shall be available for public inspection.

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## a) Application

Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the State's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.

## b) Standards of Responsibility

1) Standards. Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective vendor:

- A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements (the Procurement Officer may designate a level of financial resource below which the vendor will be deemed "not responsible");
  - B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;
  - C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;
  - D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or that create a reasonable inference or appearance of a lack of integrity on the part of the vendor may be declared not responsible for the particular procurement;
  - E) is qualified legally to contract with the State;
  - F) has supplied all necessary information in connection with the inquiry concerning responsibility;
  - G) has a current Public Contracts number from the Illinois Department of Human Rights, pursuant to 44 Ill. Adm. Code 750.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination; and
  - H) pays prevailing wages, if required by law.
- 2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of such vendor. The State may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the Procurement Officer shall base the determination of responsibility upon any available

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information, or may find the prospective vendor nonresponsible.

## c) Ability to Meet Standards

The prospective vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

- 1) evidence that such vendor possesses such necessary items;
- 2) acceptable plans to subcontract for such necessary items; or
- 3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

## d) Duty Concerning Responsibility

Before awarding a contract, the Procurement Officer must be satisfied that the prospective vendor is responsible. Responsibility can be proven until time of contract execution unless the solicitation or other law requires that the vendor submit information necessary to determine responsibility by a stated date or time.

## e) Written Determination of Nonresponsibility Required

If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the CPO or the SPO. The final determination shall be made part of the procurement file.

## f) Bond for Responsibility

Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required of such vendors.

## g) Affiliated Companies

Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing vendor that has been determined not responsible will also be determined not to be responsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier determination of nonresponsibility.

## SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

## Section 1.2047 Security Requirements

- a) A Procurement Officer may require that a vendor furnish bid, proposal, or performance security on State contracts. Whenever security is required, except as provided herein, the procurement document will clearly indicate the type and amount of security.
- b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.
- c) Unless the amount is set by law, the Procurement Officer will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests. That amount will vary



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depending on the type of procurement and the risks and potential losses associated with delay or failure to complete the project, and for other such reasons.

d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, responsibility is questioned and for similar reasons.

e) Permissive/Mandatory Security

1) Bid or proposal security is permissive on any contract but is not appropriate on emergency or sole source procurements.

2) Performance security is permissive on any contract and is recommended on contracts calling for advance payment.

3) Performance security is required on all public works contracts.

f) A vendor may submit a single or continuous security each year that will be applicable on all contracts of the purchasing agency. When such security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.

g) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

## SUBPART H: SPECIFICATIONS AND SAMPLES

## Section 1.2050 Specifications and Samples

a) Responsibilities Regarding Specifications

1) The Procurement Officer shall write the necessary specifications except as noted in this subsection (a).

2) If a specification for general or common use or a qualified products list exists for an item to be procured under Section 20-20 of the Code (Small Purchases), it shall be used except as otherwise authorized by the CPO. If no such specification exists, SPOs shall have the authority to prepare specifications for use in such purchases. In an emergency under Section 20-30 of the Code, any necessary specification may be utilized without regard to the provisions of this Subpart.

b) Procedures for the Development of Specifications

1) If the CPO develops a specification for a common or general use item or has developed a qualified products list in accordance with this Section for a particular supply or service, it shall be used unless the CPO authorizes use of another specification.

2) All procurements shall be based on specifications that accurately reflect the State's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.

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3) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate State needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.

4) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.

5) A specification may provide alternate descriptions where two or more design, functional, or performance criteria will satisfactorily meet the State's requirements.

c) Brand Name or Equal Specification

1) Brand name or equal specifications may be used when the Procurement Officer determines in writing that:

A) no specification for a common or general use specification or qualified products list is available;

B) time does not permit the preparation of another form of specification, not including a brand name specification;

C) the nature of the product or the nature of the State's requirement makes use of a brand name or equal specification suitable for the procurement; or

D) use of a brand name or equal specification is in the State's best interest.

2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.

3) Unless the Procurement Officer determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.

4) Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the bidder.

d) Brand Name Only Specification

1) Determination. A brand name only specification may be used only when the Procurement Officer makes a written determination that

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only the identified brand name item or items will satisfy the State's needs.

- 2) Use. Brand name alone may be specified in order to fill medical prescription needs, to stock State retail-type operations, to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the CPO. An agency may, pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.
- 3) Competition. The Procurement Officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 1.2055 (Sole Source Procurement) of this Part.

## e) Qualified Products List

- 1) Use. A qualified products list may be developed by the Procurement Officer when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy State requirements.
- 2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.
- 3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.

## f) Proven Products

The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.

## g) State Required Samples

- 1) Any required samples must be submitted as instructed in the solicitation with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.
- 2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item.

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Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the State's right to require adherence to specifications.

- 3) No payment will be made for State Required Samples. Samples not destroyed or consumed by examination or testing will be returned upon request and at vendor's expense. Such request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.

## h) Product Demonstration

Any vendor may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the State's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.

## i) Specifications Prepared by Other Than State Personnel

- 1) Specifications may be prepared by other than State personnel, including, but not limited to, consultants, architects, engineers, designers, and other drafters of specifications for public contracts when the Procurement Officer determines that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the State, and provided the Procurement Officer retains the authority to finally approve the specifications. Contracts for the preparation of specifications by other than State personnel shall require the specification writer to adhere to State requirements.
- 2) The person who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the agency head, and not a designee, determines in writing that it would be in the best interest to accept such a bid or proposal from that person. A notice to that effect shall be provided to the CPO and, if approved by the CPO, published in the Bulletin.

## SUBPART I: CONTRACT TYPE

## Section 1.2055 Types of Contracts

- a) Scope This Section contains descriptions of types of contracts and limitations as to when they should be utilized by the State in its procurements. Types of contracts not mentioned in this Section may also be utilized.
- b) Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 of the Illinois Procurement Code. This type of contracting may not be used alone or in conjunction with an authorized type of contract. A cost-plus-percentage-of-cost contract is one in which the vendor selects the supply or service on which the vendor's percentage is applied.

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- 1) A percentage mark-up from an agreed price list is not a cost-plus-a-percentage-of-cost contract.
- 2) A percentage mark-up from the price of a supply or service selected by the State or another vendor under contract to the State is not a cost-plus-a-percentage-of-cost contract.

## c) Types of Fixed-Price Contracts

1) **Firm Fixed-Price Contract.** A firm fixed-priced contract provides a price that is not subject to adjustment because of variations in the vendor's cost of performing the work specified in the contract.

2) **Fixed-Price Contract with Price Adjustment**

A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in the vendor's price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward. Examples of conditions under which adjustments may be provided in fixed-price contracts are:

- i) changes in the vendor's labor agreement rates as applied to an industry or area (such as are frequently found in contracts for the purchase of coal);
  - ii) changes due to rapid and substantial price fluctuations that can be related to an accepted index (such as contracts for gasoline, heating oils, and dental gold alloy); and
  - iii) in requirement contracts, where a vendor is selected to provide all of the State's needs for the items specified in the contract, when a general price change applicable to all customers occurs, or when a general price change alters the base price (such as a change in a manufacturer's published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).
- B) If the contract permits unilateral action by the vendor to bring about the condition under which a price increase may occur, the State shall have the right to reject the price increase and terminate without cost the future performance of the contract.

d) **Cost-Reimbursement Contracts**1) **Determination Prior to Use**

- A) A cost-reimbursement type contract may be used only when the Procurement Officer determines in writing that such a contract is likely to be less costly to the State than any other type or that it is impracticable to obtain the items.
- B) Reimbursement of travel expenses in accordance with

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applicable travel control board regulations is authorized without further determinations.

- 2) **Cost Contract.** A cost contract provides that the vendor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee.
- 3) **Cost-Plus-Fixed-Fee Contract.** This is a cost-reimbursement type contract that provides for payment to the vendor of an agreed fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for such work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the scope of work specified in the contract.

4) **Cost Incentive Contracts**

A) **General.** A cost-incentive type of contract provides for the reimbursement to the vendor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the vendor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract will vary inversely with the actual, allowable costs of performance and consequently is dependent on how effectively the vendor controls cost in the performance of the contract).

B) **Fixed-Price Cost-Incentive Contract.** In a fixed-price cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The vendor is obligated to complete performance of the contract, and, if actual costs exceed the ceiling price, the vendor suffers a loss.

C) **Cost-Reimbursement Contract with Cost-Incentive Fee.** In a cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations;



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and a cost ceiling that represents the maximum amount that the State is obligated to reimburse the vendor. The vendor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the vendor.

- e) Performance Incentive Contracts  
In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the vendor to a bonus, while late completion may entitle the State to a price decrease.
- f) Time and Materials Contracts; Labor Hour Contracts  
Time and Materials Contracts provide an agreed basis for payment for materials supplied and labor performed. Labor hour contracts provide only for the payment of labor performed. Such contracts shall, to the extent possible, contain a stated ceiling or an estimate that shall not be exceeded without prior State approval.
- g) Definite Quantity and Indefinite Quantity Contracts
  - 1) Definite Quantity. A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.
  - 2) Indefinite Quantity. An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished at specified times, or as ordered, that establishes unit prices of a fixed-price type. Generally an approximate quantity or the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the State is obligated to order and may also provide for a maximum quantity provision that limits the State's obligation to order.
  - 3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the State to order all the actual requirements of designated State agencies during a specified period of time.
- h) Leases  
A lease is a contract for the use of supplies or real property under which title will not pass to the State at any time, except pursuant to an option to purchase.
- i) Recovery Contracts  
Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the State. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or

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cost reimbursement method.

## j) Option Provisions

- 1) Contract Provision. When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. These options may be exercised without taking other procurement action when the option is established for exercise at the State's option.
- 2) Lease with Purchase Option. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding or competitive sealed proposals, the leased supply or facility is the only supply or facility that can meet the State's requirements, the purchase option price is less than the small purchase limit or emergency conditions exist.
- k) State Produced Supplies and Services  
Notwithstanding any provision in any contract, supplies or services available from the State's own programs, such as Correctional Industries, may be ordered without violating any contract.
- l) Extraordinary Quantities  
Notwithstanding any provision in any contract, the State reserves the right to take bids separately if a particular quantity requirement arises that exceeds the State's normal needs or ordering requirements.
- m) Energy Conservation  
The CPO may authorize an IFB, RFP or sole source negotiation for energy conservation measures whereby the State would make payment based on utility cost savings. Such contract shall require a clearly defined baseline of energy usage and method of measuring cost savings taking into account at least differing weather conditions, changes in facility, usage and cost of energy.
- n) Sale of Advertising in State Publications
  - 1) Pursuant to Section 20-110 of the Code, a Procurement Officer may sell ads or advertising space in certain State publications.
  - 2) These arrangements shall be made pursuant to specifications included in an IFB or, if appropriate, an RFP.
  - 3) The advertising in, or authorized use of, State publications shall be appropriate to the type of publication and the program operations of the agency.
  - 4) This procedure is authorized in conjunction with, for example, publications that promote tourism, conservation, recycling and the State fairs. The executive head of the agency must concur in writing for the agency to accept advertising from a person the agency regulates.
  - 5) Proceeds from the sale of the advertisements shall be paid as stated in the IFB or RFP, including, but not limited to, the following:
    - A) to the General Revenue Fund;
    - B) to a special fund authorized to receive the proceeds;
    - C) as free or additional copies; or

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- D) directly to the printer by the advertiser.

## SUBPART J: DURATION OF CONTRACTS

## Section 1.2060 Duration of Contracts - General

## a) General

- 1) A multi-term contract for a term up to 10 years is authorized when determined by the Procurement Officer to be in the best interest of the State.
  - 2) The length of the payment term of bonds issued by or on behalf of a State agency shall be limited as provided in the statute authorizing the issuance of the bonds.
  - 3) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10 years.
- b) The contractual obligation of both parties in each fiscal period succeeding the first is subject to appropriation and availability of funds. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be canceled without penalty to, or further payment being required by, the State. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.
- c) Conditions for Use of Multi-Term Contracts

A multi-term contract may be used when:

- 1) special production of definite quantities or the furnishing of long-term services is required to meet State needs; or
  - 2) a multi-term contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in State procurement. The following factors are among those relevant to such a determination:
    - A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;
    - B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;
    - C) stabilization of the vendor's work force over a longer period of time may promote economy and consistent quality; or
    - D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.
- d) Multi-Term Contract Procedure
- The solicitation shall state:

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- 1) the proposed term;
- 2) the amount of supplies or services required for the proposed contract period;
- 3) the type of pricing requested (e.g., firm for term);
- 4) how award will be determined.

## e) Renewals

- 1) When the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract (such as price escalations tied to an index) and the option is reserved solely to the State. A renewal option that requires modification to a material term or condition of the contract shall be treated as a new contract and shall be subject to competitive procurement procedures established by the Code and this Part.
- 2) When the original procurement was silent as to renewals, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal shall start a new term not to exceed 10 years.
- 3) Where a renewal will result in the total term, counting the initial term and any previous renewals, to exceed 10 years, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal will start a new term that shall not exceed 10 years.

## SUBPART K: CONTRACT MATTERS

## Section 1.2560 Prevailing Wage

- a) For the following classifications and if competition exists, no bidder will be awarded a contract unless its employees are paid wages and benefits and are working under conditions prevalent in the location where the work is to be performed.
  - 1) Public works
  - 2) Printing
  - 3) Janitorial services, window washing and security guard services having a monthly contract price of \$200 or a yearly price of \$2,000.
- b) Prevailing wage and conditions prevalent means the hourly wage rate, overtime, holiday pay, pension, welfare, premium differential, vacation pay and other benefits received by employees and the environmental conditions under which they work.
- c) Prevailing Wage Rates
  - 1) Prevailing wage rates, benefits and conditions will be those in effect on the first date of the contract, provided that, if the rate changes during the contract term and the amount of change is known before execution of the contract, then the contract rate

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will vary in like amount.

- 2) If the change in the collective bargaining agreement cannot be determined in advance, the contract will be changed by the amount of the change in wage rate and all components of price that are dependent on the usage rate, such as payroll taxes, worker's compensation insurance, vacation, sick days, and pension, provided that profit shall not increase due to prevailing wage increases. The using agency shall have the option to cancel the contract if the new price is unacceptable.
- 3) If the initial prevailing wage, etc., cannot be determined prior to execution, contracts may be entered into and will remain valid for the stated term.
- d) If a collective bargaining agreement is in effect governing the type of printing, janitorial, window washing or security guard service sought, that agreement will define minimum wages, benefits and conditions that must be paid in order for a bidder to be considered responsible.
- e) For public works, location means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work.
- f) For printing contracts, location means one of the following areas:
  - 1) Cook County;
  - 2) Boone, Bureau, Carroll, Champaign, DeKalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogles, Peoria, Piatt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermilion, Warren, Whiteside, Will, Winnebago, and Woodford counties;
  - 3) Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, and Williamson counties.
  - 4) Where the printing is performed in a plant outside the jurisdiction of this State, it shall be deemed produced in the Illinois locality in which delivery of the printing ordered is required to be made. Where such printing is required to be delivered to more than one Illinois locality, such printing shall be deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.

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- g) For janitorial services, window washing and security guard services, location means the county in which the work is to be performed.
- h) Prevailing wages, benefits and conditions will be determined by the Illinois Department of Labor.

## Section 1.2570 Equal Employment Opportunity; Affirmative Action

- a) Public Contracts. Every party to a public contract and every eligible bidder shall:
  - 1) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
  - 2) Comply with the procedures and requirements of the Department of Human Rights' (DHR) regulations concerning equal employment opportunities and affirmative action;
  - 3) Provide such information, with respect to its employees and applicants for employment, and assistance as DHR may reasonably request;
  - 4) Have written sexual harassment policies that shall include, at a minimum, the following information:
    - A) the illegality of sexual harassment;
    - B) the definition of sexual harassment under State law;
    - C) a description of sexual harassment, utilizing examples;
    - D) the vendor's internal complaint process, including penalties;
    - E) the legal recourse, investigative and complaint process available through DHR and the Human Rights Commission;
    - F) directions on how to contact DHR and the Commission; and
    - G) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act (IHRA) [775 ILCS 5]. A copy of the policies shall be provided to the Department of Human Rights upon request.
- b) Section 7-105A of the IHRA authorizes the Department of Human Rights to promulgate policies, rules and regulations to implement the provisions of the IHRA applicable to eligible bidders and public contractors. DHR has promulgated rules, 44 Ill. Adm. Code 750, that establish public contractor and eligible bidder duties, obligations, and reporting requirements. These rules require that certain employers register with DHR in order to be eligible for the award of certain public contracts (44 Ill. Adm. Code 750-Appendix A).

## SUBPART L: CONTRACT PRICING

## Section 1.2800 All Costs Included

The IFB or RFP and any resulting contract should define whether prices cover transportation, transit insurance, delivery, installation, taxes, and any other



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costs.

## SUBPART M: CONSTRUCTION AND CONSTRUCTION RELATED PROFESSIONAL SERVICES

## Section 1.3005 Construction and Construction Related Professional Services

Construction and construction-related services are procured by the CPOs for the Illinois Department of Transportation and the Capital Development Board under rules promulgated by those CPOs. This Part does not apply to those procurements except as may be specifically adopted by those CPOs in their rules. Rules promulgated by these CPOs may be found in:

- a) 44 Ill. Adm. Code, Subtitle B, Chapter IX (CPO - Department of Transportation);
- b) 44 Ill. Adm. Code, Subtitle B, Chapter XII (CPO - Capital Development Board).

## SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

## Section 1.4005 Real Property Leases and Capital Improvement Leases

Real property leases and capital improvement leases are subject to the requirements of this Part and those in 44 Ill. Adm. Code 5000. In the event of a conflict, 44 Ill. Adm. Code 5000 shall prevail.

## SUBPART O: PREFERENCES

## Section 1.4505 Procurement Preferences

The procurement preferences identified in Article 45 of the Code must be considered in developing procurement documents, conducting evaluations and drafting contracts.

## Section 1.4510 Resident Bidder Preference

- a) "Illinois resident vendor" as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced.
- b) In breaking a tie, an Illinois resident vendor shall be given the award.
- c) The CPO shall maintain a list of states with in-state preference that

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shall be consulted in all procurements involving out-of-state vendors.

## Section 1.4530 Correctional Industries

- a) The CPO shall make available to all SPOs a listing of the supplies or services available from the Department of Corrections and shall identify those that must be purchased from Corrections.

- b) Those items that must be purchased from Corrections may not be procured from any other source without the express written authorization of the CPO.

- c) Procurement Officers are authorized to procure from Corrections without seeking competition or giving public notice, but must inform the CPO of all such purchases.

## Section 1.4535 Sheltered Workshops for the Disabled

- a) Use of Sheltered Workshop

The Procurement Officer may determine to contract with a sheltered workshop on the list maintained by the CPO, and may do so without notice or competition.

- b) Conditions for Use

The CPO shall, in consultation with the State Use Committee created by the Code (Section 45-35), determine which articles, materials, services, food stuffs and supplies that are produced or manufactured by persons with disabilities in State use sheltered workshops shall be given preference by purchasing agencies procuring those items. The CPO shall develop and distribute to the various purchasing and using agencies procedures for implementing this Section.

- c) Sheltered Workshop List

The CPO shall maintain a list of all qualified sheltered workshops and shall provide to State agencies that list and the supplies and services each qualified sheltered workshop provides.

- d) Pricing Approval

- 1) While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar supplies or services, the policy of the Code to promote procurements from sheltered workshops, and other such relevant factors.
- 2) The State Use Committee, established under Section 45-35 of the Code, must approve contracts for reasonableness of price if:
  - A) the supply or service would ordinarily be subject to competitive sealed bidding or competitive sealed proposals methods of source selection; or
  - B) the supply or service is bid and the sheltered workshop is selected even though not the lowest responsible bidder.
- 3) State Use Committee approval is not required if:

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- A) the contract does not exceed the bid limit set in Section 1.2020 of this Part and no bidding was conducted; or
- B) the contract is let to the sheltered workshop under a competitive procedure.
- 4) When Committee approval is required, it will be given or denied in an expeditious manner so as not to disrupt procurement activities. Consideration will be at regularly scheduled meetings or through special telephone meetings conducted between regular meetings.

## Section 1.4540 Gas Mileage

- a) Passenger automobile specifications shall require compliance with minimum gas mileage requirements established in Section 45-40 of the Code. Passenger automobiles must achieve at least the minimum average fuel economy in miles per gallon imposed upon manufacturers of vehicles under Title V of the Motor Vehicle Information and Cost Savings Act.
- b) Passenger automobiles that do not meet the minimum gas mileage requirements may not be procured unless and until the SPO makes a written determination that a non-compliant automobile is necessary to carry out the function of the agency, the SPO's determination is signed by the executive head of the procuring agency and the signed determination is reviewed and approved by the CPO.
- c) The CPO may require use of a uniform form or format for the SPO's determination.
- d) In response to the SPO's determination, the CPO may suggest a more economical alternative to the agency head. If such a suggestion is made, the agency head must state in writing why the alternate vehicle will not allow the agency to carry out its functions. If the agency head confirms need for the non-compliant passenger automobile, that vehicle may be procured. Except in the case of a covert vehicle, notice that a non-compliant passenger automobile is being purchased will be placed in the Bulletin along with the reasons for such a decision.
- e) Passenger automobile does not include station wagons, vans, four-wheel drive vehicles, emergency vehicles, or police or fire vehicles.

## Section 1.4545 Small Business

- a) Set-Aside  
The CPO may determine categories of supplies or service procurements that will be set aside for small business. The set-aside designation may be made for current and future procurements of a specific supply, service or construction, or for a class of like supplies, services or construction. A set-aside designation may last indefinitely or for a stated period of time.
- b) Small Business List  
The CPO will maintain a list of responsible vendors that meet the criteria of small business. The CPO will periodically inform each purchasing agency of those vendors on the list and the supplies and services that each provides. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.

- c) Required Use  
If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.
- d) Withdrawal of Set-Aside  
If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.

- e) Criteria for Small Business  
Unless the CPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
- 3) With annual sales for most recently ended fiscal year no greater than:
  - A) \$7,500,000 for wholesale business;
  - B) \$3,000,000 for construction business; or
  - C) \$1,500,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business.
  - A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.
  - B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be

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The CPO will maintain a list of responsible vendors that meet the criteria of small business. The CPO will periodically inform each purchasing agency of those vendors on the list and the supplies and services that each provides. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.

- c) Required Use  
If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.
- d) Withdrawal of Set-Aside  
If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.

- e) Criteria for Small Business  
Unless the CPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
- 3) With annual sales for most recently ended fiscal year no greater than:
  - A) \$7,500,000 for wholesale business;
  - B) \$3,000,000 for construction business; or
  - C) \$1,500,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business.
  - A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.
  - B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be

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calculated for the period through one month prior to the bid or proposal due date.

- 5) If both a wholesaler and a retailer, the combined wholesale and retail annual sales for its most recently completed fiscal year may not exceed \$9,000,000. The retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$7,500,000.
- 6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchisee has the right to profit commensurate with ownership and bears the risk of loss or failure.

- f) Vendors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses shall submit information verifying that the vendor qualifies as a small business under the Code. The CPO may establish procedures for verifying such information.

#### Section 1.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

- a) Introduction  
The Business Enterprise Act for Minorities, Females, and Persons with Disabilities [30 ILCS 575] (Act) sets a goal (minimum 12%) for contracting with businesses owned or controlled by minorities, females, or persons with disabilities.
- b) Goal  
Each State agency subject to that Act shall establish a goal that at least 12% of the dollar value of State contracts be awarded to minority and female-owned businesses. Of that 12%, five shall be for female-owned businesses, two for businesses owned by persons with disabilities and not-for-profit agencies for the disabled, and the remaining five for other minority-owned businesses, unless these percentages are modified by the Council created under the Act.
- c) Upon direction of the CPO, and pursuant to direction from the Council, the procuring agencies may establish set-asides and other such preferences for vendors certified under that Act.
- d) Certification  
Certification procedures are set forth in rules governing the Business Enterprise Act (44 Ill. Adm. Code 10).
- e) List of Certified Businesses

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- 1) The CPO shall maintain a list of businesses that have been certified. This list shall be made available to all procuring agencies.
- 2) The names and addresses of certified vendors shall be made available to the public.

#### f) Professional and Artistic Contract Reporting

Professional and artistic contracts, which must be reported to the Business Enterprise Council pursuant to Section 6a of the Business Enterprise Act, shall be reported as follows:

- 1) Notice that an agency intends to enter into a professional and artistic contract shall be given to the Council. Notice may be mailed, hand delivered or given by fax, and must be submitted on the same date that the potential vendor is contacted. If the contract is advertised in the Bulletin, reporting to the Council is not required.
- 2) The notice shall include the agency name and address; contact person; contract reference number; date bid or proposal was first available; return dates and opening dates; term of the contract; services to be provided; special requirements; and dollar value. Notice should be given on the form available from the CPO.

## SUBPART P: ETHICS

#### Section 1.5013 Conflicts of Interest

- a) This Section does not apply to those elected to local government, including school districts, nor does it apply to those elected to Federal offices in this State. This Section does apply to those elected to an office of Illinois State government.
- b) An individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise receives a direct financial benefit in conjunction with performance of a contract, including finders fees and commission payments.
- c) Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, which is distributed to those entitled to receive a share of such income.
- d) This Section does not apply to contracts with licensed professionals provided such contracts are competitively bid. For purposes of this Section, "bid" means procured pursuant to the competitive procedures identified in Subpart E of this Part.

#### Section 1.5015 Negotiations for Future Employment

- a) It is unlawful for any person employed in or on a continual contractual relationship with any of the offices or agencies of State government to participate in contract negotiations on behalf of that office or agency with any firm, partnership, association, or



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corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment. [30 ILCS 500/50-15(a)]

b) An individual who performs services pursuant to a contract and who meets the requirements of an "employee" as opposed to an independent contractor is in a "continued contractual relationship" from the effective date of the contract until such time as the contract is terminated.

c) An individual who performs services pursuant to a contract and who meets the requirements of an "independent contractor" as opposed to an "employee" is in a "continual contracted relationship" if the contract term is indefinite, is automatically renewed, is renewable at the individual's option, is renewable unless the State must act to terminate, or has a definite term of at least three months.

## Section 1.5020 Exemptions

If the Procurement Officer finds a conflict of interest under Section 50-13 of the Code with the vendor selected for award or contract negotiations, the Procurement Officer shall forward to the CPO the name of the vendor and a description of the proposed contract and of the potential conflict, and shall state why an exemption should be granted. The CPO shall submit the files to the Board of Ethics for its determination and with the approval of the CPO, the Board of Ethics may exempt named individuals from the prohibitions of Section 50-13 of the Code when, in its judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. [30 ILCS 500/50-20]

## Section 1.5030 Revolving Door

Effective January 15, 1999, CPOs, SPOs, and Associate Procurement Officers (APOs) shall identify in writing their designees whose job or position descriptions are at least 51% directly related to State procurement. They shall maintain that information for a period of at least two years following the end or revocation of the designation.

## Section 1.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

a) Distributable or distributive income means the income of a company after expenses, including employee salaries and bonuses, and retained earnings, which is distributed to those entitled to receive a share of such income.

b) Personal services shall be any contract for services subject to this Code, including, by way of example, professional and artistic services, repair services, cleaning and guard services.

c) "Competitively bid" means a contract let pursuant to Section 20-10 of the Code.

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d) "Subject to federal 10K reporting" means subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934. "10K disclosure" means a report required under Section 13 or 15(d) of the Securities Exchange Act of 1934.

e) Once a disclosure is made in relation to a particular contract, the disclosure need not be repeated if the contract is amended.

f) 10K Disclosures

1) Any vendor subject to federal 10K reporting requirements may submit its 10K to the State in satisfaction of the disclosure requirement of Section 50-35(b) of the Code provided the vendor also identifies the specific sections or parts in the 10K disclosure where the State may find information, if any, pertaining to those who have an ownership interest or an interest in the distributable income of the vendor or its parent, or other information that the vendor knows or reasonably should know identifies a potential conflict of interest with the State. If the financial interest or conflict of interest information requested by the State is not in the 10K, but is in a document referenced in the 10K, or in a document that may be submitted to the SEC in conjunction with or in lieu of the 10K, then that additional documentation shall be provided as well.

2) 10K disclosures are available for public review. Any potential conflict of interest identified by the public and brought to the attention of the CPO or SPO shall be investigated.

3) In circumstances where a vendor may submit a 10K disclosure in lieu of the specific disclosure requirements of the Code and for purposes of the Procurement Officer's duty to consider any conflict or potential conflict of interest that may exist, but that is not subject to specific disclosure requirements of the Code and this Part, and that is not personally known by the Procurement Officer, "publicly known or reasonably available to the public" shall consist of information identified by the vendor in the 10K disclosure and any information disclosed pursuant to public review of the 10K disclosure.

## SUBPART Q: CONCESSIONS

## Section 1.5310 Concessions

a) A concession is an authorization allowing use of State property for the purpose of making profit, including future profit.

b) An authorization to allow use of State property by not-for-profit entities is not a concession or lease of State property under Article 53 of the Code.

c) Proposed concessions, leases or other uses of State property must be coordinated with the State Property Control Act [30 ILCS 605] and rules implementing that Act.

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## SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

## Section 1.5510 Complaints Against Vendors

- a) The purpose of this Section is to document performance of vendors.
- b) Whenever a vendor fails to meet contract requirements, including but not limited to failure to deliver on time or meet specifications, the using agency shall take appropriate action to initiate a complaint to the vendor.
- c) For relatively minor infractions, the using agency may initiate contact by telephone or in person. If not resolved by this action, a written complaint shall be made.
- d) For other infractions, the using agency shall send a written complaint to the vendor detailing the problem. For complaints regarding contracts established by the CPO, a form available from the CPO shall be used for processing complaints.
- e) A copy of all written complaints and the resolution or status shall be filed with the CPO.

## Section 1.5520 Suspension

- a) Application  
This Section applies to all debarments or suspensions of vendors from consideration for award of contracts under the Code.
- b) The CPO may suspend a vendor from doing business with the State, with one or more agencies, or for specific types of supplies or services. A suspension may be issued upon a showing the vendor violated the Code or this Part, or failed to conform to specifications or terms of delivery.
- c) When the CPO finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor. Bids or proposals will not be solicited from the suspended vendor, and, if received, will not be considered during the period of suspension.
- d) A vendor may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.
- e) The CPO may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the State. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals received from the debarred vendor will not be considered.
- f) The CPO shall maintain a master list of all suspensions and debarments. The master list will retain information concerning

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suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

## Section 1.5530 Resolution of Contract Controversies

- a) Authority to Resolve Controversies  
The Procurement Officer shall have authority to resolve controversies, but the executive head of the purchasing agency may set limits on such authority.
- b) Authority of Using Agency  
The using agency has the authority to accept delivery of supplies or services in accordance with contract requirements as satisfactory adjustment of a complaint.
- c) Substitution of Terms/Price Reduction  
If the vendor proposes to make an adjustment by:
  - 1) substituting an alternative specification, or
  - 2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract,
 such proposal must be referred to and approved by the Procurement Officer, but not a designee.
- d) Cancellation for Breach of Contract  
In any of the following cases the Procurement Officer shall have the right to terminate or rescind any contract entered into under this Part:
  - 1) In the event the successful bidder fails to furnish a satisfactory performance bond within the time specified.
  - 2) In the event the vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the purchasing agency.
  - 3) In the event any supplies or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's supplies or services, this shall be grounds for termination or rescission, even though the vendor offers to replace the supplies or services promptly.
  - 4) In the event the vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with another contract for the sale of supplies or services to the State such that the vendor cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any of his contracts with the State.
  - 5) In the event the vendor should be adjudged bankrupt; enter into receivership or make a general assignment for the benefit of creditors due to insolvency; disregard laws, rules, or instructions of the Procurement Officer; or act in violation of

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any provision of the contract; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.

6) In the event of any other breach of contract or other unlawful act by the vendor.

e) Cancellation for Fraud, Collusion, Illegality, Etc.

The State may cancel any contract it established if there is sufficient evidence to show that:

1) The contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or

2) The contract conflicts with any statutory provision of the State of Illinois or of the United States.

f) Withholding Money to Compensate State for Damages

If a contract is terminated or rescinded under this Section, the State may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on the vendor's part on which the cancellation is based.

g) Damages

The damages for which the State may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:

- 1) the additional cost of supplies or services bought elsewhere;
- 2) cost of repeating the procurement procedure;
- 3) any expenses incurred because of delay in receipt of supplies or services; and
- 4) any other damages caused by the vendor's breach of contract or unlawful act.

## Section 1.5540 Violation of Law or Rule

a) Determination that Solicitation or Award Violates Law

If the CPO or the SPO finds that the solicitation or proposed award is in violation of statute or rule, the CPO or the SPO may cancel the solicitation or proposed award, or make modifications to correct the violation, if such correction may be legally accomplished.

b) Determination that Contract Violates the Code or this Part

Contracts based on awards or solicitations that were in violation of law shall be terminated at no cost to the State unless statute or rule allows the State to modify, ratify or take other corrective action.

c) Effect of Declaring a Contract Null and Void

In all cases in which a contract is voided, the State shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

## Section 1.5550 Protests

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a) Protest Resolution by the Procurement Officer

An actual or prospective bidder, offeror, or vendor that may be aggrieved in connection with a procurement may file a protest on any phase of solicitation or award, including but not limited to specifications preparation, bid solicitation, or award.

b) Complaint to Procurement Officer

Complainants should seek resolution of their complaints initially with the office that issued the solicitation. Such complaints may be made verbally or in writing.

c) Filing of Protest

1) Protests shall be made in writing to the Procurement Officer, if applicable, and shall be filed within 14 days after the protester knows or should have known of the facts giving rise to the protest. A protest is considered filed when physically received by the Procurement Officer. Protests filed after the 14 day period shall not be considered. In regard to a protest regarding specifications, the protest must be received within 14 days after the date the solicitation was issued, and in any event must be received by the State at the designated address before the date for opening of bids or proposals.

2) To expedite handling of protests, the envelope should be labeled "Protest". The written protest shall include as a minimum the following:

- A) the name and address of the protester;
- B) appropriate identification of the procurement, and, if a contract has been awarded, its number;
- C) a statement of reasons for the protest; and
- D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.

d) Requested Information; Time for Filing

Any additional information requested by the State shall be submitted within the time periods established by the requesting source in order to expedite consideration of the protest. Failure of the protesting party to comply expeditiously with a request for information by the Procurement Officer may result in resolution of the protest without consideration of that information.

e) Stay of Procurements During Protest

When a protest has been timely filed and before an award has been made, the Procurement Officer shall make no award of the contract until the protest has been resolved. If timely received but after award, the award shall be revoked without penalty and no award made until the protest has been resolved. In either case the Procurement Officer may make the award or reinstate the award upon a determination that the needs of the State require an immediate award and performance under the contract.

f) Decision by the Procurement Officer



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A decision on a protest shall be made by the Procurement Officer as expeditiously as possible after receiving all relevant, requested information. If a protest is sustained, the available remedies include, but are not limited to, reversal of award and cancellation or revision of the solicitation.

- g) Effect of Judicial or Administrative Proceedings
- If an action concerning the protest has commenced in court, the Procurement Officer shall not act on the protest, but shall refer the protest to the Attorney General. This Section shall not apply when a court requests, expects, or otherwise expresses interest in the decision of the Procurement Officer.

## SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

## Section 1.6010 Supply Management and Dispositions

- a) Inventory Responsibility
- Each State agency shall have general supervision of and accountability for tangible personal property and other supplies under its control subject to the requirements of the State Property Control Act [30 ILCS 605] and rules implementing that Act.

- b) Supply Management
- State agencies shall order supplies on a schedule and in quantities so as to maintain no more than a 12 month supply in inventory. Supplies shall be ordered so as to maintain the minimum inventory commensurate with ability to meet agency needs. This 12-month inventory restriction does not apply to lifesaving medications, mechanical spare parts, or when a greater quantity is needed to meet minimum order quantities.

- c) Inventory
- State agencies shall periodically inventory all warehouses and similar storage areas under their jurisdiction.

- d) Report of Inventory
- The CPO may require that agencies note on purchase requests compliance with the 12 month restriction on inventory.

- e) Transfer of Excess Supplies
- Insofar as feasible, practical and in accordance with other applicable law, the SPOs shall transfer excess supplies to the Department of Central Management Services Surplus Property Division for disposition under the State Property Control Act [30 ILCS 605].

## SUBPART T: GOVERNMENTAL JOINT PURCHASING

## Section 1.6500 General

In an effort to make the procurement process more efficient, State and other governmental units (including not-for-profit entities authorized by law to participate in joint purchasing) may agree to utilize each others' procurement

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contracts. This authority is governed by this Subpart and the Governmental Joint Purchasing Act [30 ILCS 525]. Only the CPO may enter into contracts under the Act when the State is a party to the contract.

## Section 1.6510 No Agency Relationship

In any joint procurement situation, the governmental unit must issue its own purchase order, accept its own deliveries and make its own payments. The State of Illinois shall have no obligation to the vendor for payment of orders placed by other governmental units.

## Section 1.6520 Obligations of Participating Governmental Units

If governmental units determine to use contracts established by the CPO, they must:

- provide to the CPO a copy of the ordinance or resolution passed by the governing body of the governmental unit giving authority to make purchases from contracts issued by the State of Illinois;
- make all purchases under the State contracts for public use only and specifically prohibit personal use or consumption by any individual, public employee or official;
- make payment to the vendor within 30 days after receipt of supplies or services;
- place orders with the supplier directly using their own purchase order forms. A copy of the purchase order must also be sent to the CPO. This copy will be used for statistical purposes and will serve as notice that the governmental unit has complied with the bid action;
- inspect all items immediately for compliance with the contract specifications and report to the CPO any failure of suppliers to comply with contract requirements; and
- attempt to resolve disputes with the vendor before involving the CPO.

## Section 1.6530 Centralized Contracts - Estimated Quantities

Certain centralized contracts for estimated quantities contain a price extension clause permitting governmental units to utilize the contract by placing an order directly with the vendor. Governmental units using these contracts must comply with the following provisions or risk being removed from active participation in this program:

- the State purchase order or contract reference number as indicated in the "Notice of Awards" must be shown;
- the purchase order or contract reference number must contain a complete description of the item; item number; brand and/or model number; unit of measure; unit price; and price extension;
- place orders for at least the minimum quantities shown on the "Notice of Awards" (Vendors are not required to deviate from the terms of their contract.); and
- read the "Notice of Awards" carefully to ensure understanding of

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special provisions, particularly as it may pertain to catalogs and price lists.

## Section 1.6535 Centralized Contracts - Definite Quantities

- a) Certain items, such as foods and highway salt, are purchased under definite quantity contracts. Governmental units interested in such items, or other items not covered under the estimated quantity contracts, must contact the CPO for instruction on use of those contracts.
- b) If purchase requests are received after the Invitation for Bids has been issued, if the quantities are too small for centralized purchase, or do not lend themselves to joint purchasing, the State will return the purchase request to the governmental unit.
- c) Governmental units must consider the following factors prior to filing purchase requests for definite quantities:
  - 1) The State issues Invitation for Bids and makes awards based on the requirements covered by purchase requests. The State does not take bids to obtain estimated prices. Withdrawal from participation in the contract after solicitation for bids has been made by the State will not be permitted except in very unusual cases.
  - 2) Any governmental unit having an existing contract shall complete that contract before participating in joint purchasing for that item.
  - 3) Overlapping time periods must be identified in the joint purchase requisition so there will be no misunderstanding as to whether or not existing commitments will be honored or as to the date a future commitment will begin.
  - 4) It should be clearly understood that the governmental unit has delegated its authority to purchase items covered by purchase requests and that the resulting award will be made in exactly the same manner as if the purchase requests had been submitted by a State agency.
  - 5) Specifications established in the Invitation for Bids shall be accepted.
  - 6) Location of the vendor will not be a factor in determining the award, except as may be established by State law.
  - 7) The governmental units are required to purchase items awarded from the successful bidder.

## SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

## Section 1.7000 Severability

If any provision of this Part or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Part that can be given effect without such invalid provision or application.

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## Section 1.7010 Government Furnished Property

If the State provides any property to the vendor in furtherance of the contract, such property shall remain the property of the State but may be consumed by the vendor if necessary to complete the contract. Vendor will issue a receipt for the property and will be responsible for its safekeeping and for return of unused property to the State.

## Section 1.7015 Inspections

- a) Inspection of Plant or Site  
The State may enter a vendor's or subcontractor's plant or place of business to:
  - 1) inspect supplies or services for acceptance by the State pursuant to the terms of a contract;
  - 2) audit the books and records of any vendor or subcontractor pursuant to Section 1.7020 (Records and Audits) of this Part;
  - 3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to the Code;
  - 4) determine whether the standards of responsibility have been met or are capable of being met;
  - 5) determine if the contract is being performed in accordance with its terms; and
  - 6) accomplish any other purpose permitted by law.
- b) Inspection and Testing of Supplies and Services  
State contracts may provide that the State may inspect supplies and services at the vendor's or subcontractor's facility and perform tests to determine whether the supplies or services conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.
  - 2) Procedures for Trial Use and Testing. The Procurement Officers may establish operational procedures governing the testing and trial use of equipment, material, and other supplies by any State agency, and the application of resulting information and data to specifications or procurements.
- c) Conduct of Inspections
  - 1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the vendor or subcontractor. No inspector other than the Procurement Officer may change any provision of the specifications or the contract without written authorization of the Procurement Officer. The presence or absence of an inspector shall not relieve the vendor or subcontractor from any requirements of the contract.
  - 2) Location. When an inspection is made in the plant or place of business of a vendor or subcontractor, such vendor or

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subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

- 3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any vendor or subcontractor shall be performed at reasonable times.

- d) Inspection of Construction Projects  
On-site inspection of construction shall be performed in accordance with the terms of the contract.

## Section 1.7020 Records and Audits

- a) Retention of Books and Records  
Books and records that relate to performance of a State contract, including subcontracts, and that support amounts charged to the State, shall be maintained:

- 1) by a vendor, for three years from the date of final payment under the prime contract;
- 2) by a subcontractor, for at least three years from the date of final payment under the subcontract; and
- 3) by a vendor and subcontractor for such longer period of time as is necessary to complete ongoing or announced audits.

- b) Contract Audit

- 1) Types of Contracts Audited. The type of contract under which books and records should be audited is that in which price is based on costs or is subject to adjustment based on costs, or that in which auditing would be appropriate to assure satisfactory performance, such as a time and materials contract.

- 2) Situations in which an audit may be warranted include but are not limited to when a question arises in connection with:

- A) the financial condition, integrity, and reliability of the vendor or subcontractor;
- B) any prior audit experience;
- C) the adequacy of the vendor's or subcontractor's accounting system;
- D) the number or nature of invoices or reimbursement vouchers submitted by the vendor or subcontractor for payment;
- E) the use of federal assistance funds;
- F) the fluctuation of market prices affecting the contract; or
- G) any other situation in which the Procurement Officer finds that such an audit is necessary for the protection of the State's best interest.

## Section 1.7025 Written Determinations

- a) Preparation and Execution  
When the Code or this Part requires a written determination, the officer required to prepare the determination may delegate its

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preparation, but the responsibility for and the execution of the determination shall not be delegated.

- b) Content  
Each written determination shall set out sufficient facts, circumstances, and reasoning as will substantiate the specific determination that is made.

- c) Obtaining Supporting Information  
While an officer is responsible for the execution of the written determination, other State personnel, particularly technical personnel and appropriate personnel in the purchasing agency, are responsible for furnishing to the cognizant official, in an accurate and adequate fashion, the information pertinent to the determination. When requested, such information shall be furnished in writing to the cognizant official who shall have the authority to decide the final form and content of the determination and to resolve any questions or conflicts arising with respect to the determination.

- d) Forms

The CPO is authorized to prescribe methods and operational procedures to be used in preparing written determinations.

- e) Retention

Each written determination shall be filed in the solicitation or contract file to which it applies, shall be retained as part of such file for so long as the file is required to be maintained, and, except as otherwise provided by statute or rule, shall be open to public inspection.

## Section 1.7030 No Waiver of Sovereign Immunity

Nothing in this Part shall be deemed to be a waiver of sovereign immunity.



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Hearings before the Office of Banks and Real Estate
- 2) Code Citation: 38 Ill. Adm. Code 392
- 3) Section Number: Proposed Action:  
 392.10 Amendment  
 392.20 Amendment  
 392.30 Amendment  
 392.40 Amendment  
 392.80 Amendment  
 392.170 Amendment  
 392.200 Amendment

4) Statutory Authority: Implementing and authorized by Section 48 of the Illinois Banking Act [205 ILCS 5/48], Section 20 of the Electronic Fund Transfer Act [205 ILCS 616/20], Section 5-1 of the Corporate Fiduciary Act [205 ILCS 620/5-1], Section 3.074 of the Illinois Bank Holding Company Act of 1957 [205 ILCS 10/3.074], Section 7 of the Foreign Bank Representative Office Act [205 ILCS 650/7], Section 0.05 of the Pawnbroker Regulation Act [205 ILCS 510/0.05], Section 38 of the Check Printer and Check Number Act [205 ILCS 690/38], and Section 18 of the Foreign Banking Office Act [205 ILCS 645/18].

5) A complete description of the subjects and issues involved: The proposed changes make these haring rules applicable to two existing, and two new, regulatory programs which have been made the responsibility of the Office of Banks and Real Estate. (The Joint Committee on Administrative Rules has encouraged this agency and others to consolidate hearing rules when possible.) The rulemaking also expands the grounds for permitting evidence depositions in lieu of actual testimony at hearings.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending to this Part? No

10) Statement of Statewide Policy Objectives: This rule will not affect local government.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

John Arthur

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED AMENDMENT(S)

Legislative Liaison  
 Office of Banks and Real Estate  
 500 East Monroe, Suite 900  
 Springfield IL 62701-1532  
 217/782-3000

The Agency will consider all written comments it receives in writing within 45 days after this publication of the *Illinois Register*.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendment begins on the next page:

OFFICE OF BANKS AND REAL ESTATE  
NOTICE OF PROPOSED AMENDMENT(S)

This Part shall apply to hearings conducted under the jurisdiction of the Office of Banks and Real Estate or the Commissioner of Banks and Real Estate pursuant to Section 48 of the Illinois Banking Act [205 ILCS 5/48], Section 20 of the Electronic Fund Transfer Act [205 ILCS 616/20], Section 5-1 of the "the Corporate Fiduciary Act" [205 ILCS 620/5-1], Section 3.074 of the Illinois Bank Holding Company Act of 1957 [205 ILCS 10/3.074], Section 7 of the Foreign Bank Representative Office Act [205 ILCS 650/7], Section 0.05 of the Pawnbroker Regulation Act [205 ILCS 510/0.05], Section 38 of the Check Printer and Check Number Act [205 ILCS 690/38], and Section 18 of the Foreign Banking Office Act [205 ILCS 645/18].

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 392.20 Definitions

"Administrative decision" means an order, fine or other regulatory action issued by the Office of Banks and Real Estate pursuant to authority granted under the Illinois Banking Act [205 ILCS 5], the Electronic Fund Transfer Act [205 ILCS 616], the Corporate Fiduciary Act [205 ILCS 620], the Illinois Bank Holding Company Act of 1957 [205 ILCS 10], the Foreign Bank Representative Office Act [205 ILCS 650], the Pawnbroker Regulation Act [205 ILCS 510], the Check Printer and Check Number Act [205 ILCS 690], or the Foreign Banking Office Act [205 ILCS 645], but does not include a determination in an arbitration arising under the Electronic Fund Transfer Transmission Facility Act nor an order of removal issued by the Commissioner pursuant to Section 48(7) of the Illinois Banking Act or Section 5-6 of the Corporate Fiduciary Act.

"Commissioner" means the Commissioner of Banks and Real Estate, or a person authorized by the Commissioner to act in the Commissioner's stead.

"Hearing officer" means the Commissioner or an attorney licensed in the State of Illinois who is the presiding official appointed by the Commissioner to conduct a hearing.

"Party" includes the Commissioner and any person subject to an administrative decision.

"Person" means a an individual or business entity state-bank-national bank-foreign-banking-corporation, state-savings-and-loan-association federal-savings-and-loan-association-credit-union, any licensee-under the Consumer Installment Loan Act [205 ILCS 640], a trust-company-or any-other-corporation-authorized-to-accept-or-execute-trusts-under the Corporate Fiduciary Act [205 ILCS 620], a funds-transfer corporation, transmission facility, proprietary network, similar

OFFICE OF BANKS AND REAL ESTATE  
NOTICE OF PROPOSED AMENDMENT(S)

TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE

PART 392

HEARINGS BEFORE THE OFFICE OF BANKS AND REAL ESTATE

Section	Applicability
392.10	Definitions
392.20	Request for a Hearing
392.30	Form of Request for a Hearing
392.40	Hearing Officer
392.50	Notice of Hearing
392.60	Motions
392.70	Answer
392.80	Form of Pleadings
392.90	Service
392.100	Appearances
392.110	Consolidation of Hearing Proceedings
392.120	Authority of Hearing Officer
392.130	Prehearing Conferences
392.140	Subpoenas
392.150	Discovery
392.160	Evidence Depositions
392.170	Conduct of a Hearing
392.180	Evidence
392.190	Record of Hearing Proceedings
392.200	Briefs
392.210	Hearing Officer's Recommendation
392.220	Commissioner's Determination
392.230	Construction of Rules
392.240	

AUTHORITY: Implementing and authorized by Section 48 of the Illinois Banking Act [205 ILCS 5/48], Section 20 of the Electronic Fund Transfer Act [205 ILCS 616/20], Section 5-1 of the Corporate Fiduciary Act [205 ILCS 620/5-1], Section 3.074 of the Illinois Bank Holding Company Act of 1957 [205 ILCS 10/3.074], Section 7 of the Foreign Bank Representative Office Act [205 ILCS 650/7], Section 0.05 of the Pawnbroker Regulation Act [205 ILCS 510/0.05], Section 38 of the Check Printer and Check Number Act [205 ILCS 690/38], and Section 18 of the Foreign Banking Office Act [205 ILCS 645/18].

SOURCE: Adopted at 11 Ill. Reg. 8917; effective April 24, 1987; amended at 11 Ill. Reg. 16424, effective October 6, 1987; recodified from Chapter II, Commissioner of Banks and Trust Companies, to Chapter II, Office of Banks and Real Estate, pursuant to P.A. 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 392.10 Applicability

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED AMENDMENT(S)

~~facility and any director, officer, employee or agent thereof.~~

"Respondent" means the persons persons named in the administrative decision.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 392.30 Request for a Hearing

Any party may file a Request for a Hearing on an administrative decision. With respect to an administrative decision issued pursuant to Section 10-101 of the Electronic Fund Transfer Transmission Facility Act, if no request for a hearing is filed, the Commissioner shall deem one to have been filed.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 392.40 Form of Request for a Hearing

The Request for a Hearing shall be filed within ten (10) days after receipt of an administrative decision and shall:

- clearly state the name of the respondent;
- identify the administrative decision with respect to which a hearing is requested;
- be typewritten on 8 1/2 x 11 inch paper;
- be signed by the respondent or by the respondent's attorney and shall contain the address and telephone number of the individual signing the document; and
- be sent by either certified mail, return receipt requested, or by personal delivery to the Office of Banks and Real Estate, 500 East Monroe, Springfield, Illinois 62701.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 392.80 Answer

- An answer to an administrative decision is not required unless the respondent requests a hearing on such decision. With respect to an administrative decision issued pursuant to Section 10-101 of the Electronic Fund Transfer Transmission Facility Act, if no answer is filed, the Commissioner shall deem one to have been filed which denies all allegations contained within the administrative decision.
- An answer to an administrative decision shall be filed with the Commissioner and the hearing officer, if one has been appointed, within twenty (20) days after the day on which the administrative decision is served upon an respondent.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED AMENDMENT(S)

- An answer shall contain an explicit admission, denial or appropriate response to each allegation contained within an administrative decision.
- Allegations in an administrative decision to which there is no response shall be deemed admitted.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 392.170 Evidence Depositions

Evidence depositions may be ordered by the hearing officer upon a showing that, at the time of the hearing, the person deposed will not be available to participate in the hearing because of exceptional circumstances such as impending death, or imprisonment or illness, imprisonment, or other hardship.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 392.200 Record of Hearing Proceedings

- The hearing officer shall appoint a licensed court reporter to make a stenographic transcript of all hearings.
- The record in a hearing shall include:

- the items listed in Section 10-35 of the Illinois Administrative Procedure Act [5 ILCS 100/10-35]; and
- the transcript of a hearing.

- The cost of any copy of the transcript requested by any party to the proceeding shall be borne by such party.
- The record shall be made available for examination by a party to the proceeding at the Commissioner's Springfield office (500 East Monroe Street, Springfield, Illinois 62701-1532) or Chicago office (310 S. Michigan Avenue, Suite 2130, Chicago, Illinois 60604-4278) during regular office hours.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Reimbursement to Banks and Corporate Fiduciaries for Financial Records

2) Code Citation: 38 Ill. Adm. Code 356

3) Section Numbers: Proposed Action:  
356.20 Amendment

4) Statutory Authority: Implementing Section 48.1(g) and authorized by Section 48(6) of the Illinois Banking Act [205 ILCS 5/48.1(g) and 48(6)] and implementing Section 5-11 and authorized by Section 5-1 of the Corporate Fiduciary Act [205 ILCS 620/5-11 and 5-1].

5) A Complete Description of the Subjects and Issues Involved: This amendment will increase the amount at which a bank or corporate fiduciary may be reimbursed for producing data for a customer in response to a subpoena, summons, warrant, or court order. Section 356.20 has not been amended in nearly eight years.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule will not affect local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

John Arthur  
Legislative Liaison  
Office of Banks and Real Estate  
500 East Monroe, Suite 900  
Springfield IL 62701-1532  
217/782-3000

The Agency will consider all written comments it receives in writing within 45 days after the date of this publication of the Illinois Register.

12) Initial Regulatory Flexibility Analysis:

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED AMENDMENT

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The decision to move ahead with this rulemaking was not made until after the most recent Regulatory Agenda was published.

The full text of the Proposed Amendment begins on the next page:

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED AMENDMENT

TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: OFFICE OF BANKS AND REAL ESTATEREIMBURSEMENT TO BANKS AND CORPORATE FIDUCIARIES FOR FINANCIAL RECORDS  
PART 356

Section	General Rule for Reimbursement of Costs
356.10	Rates of Reimbursement
356.20	Documentation of Costs
356.30	Payment of Costs

**AUTHORITY:** Implementing Section 48.1(g) and authorized by Section 48(6) of the Illinois Banking Act [205 ILCS 5/48.1(g) and 48(6)] and implementing Section 5-11 and authorized by Section 5-1 of the Corporate Fiduciary Act [205 ILCS 620/5-11 and 5-1].

**SOURCE:** Adopted at 12 Ill. Reg. 11182, effective August 8, 1988; amended at 11 Ill. Reg. 11183, effective July 15, 1990; recodified from Chapter II Commissioner of Banks and Trust Companies, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 356.20 Rates of Reimbursement

- Personnel costs incurred in locating, retrieving, reproducing and preparing financial records shall be reimbursed at the rate of \$20.45 per hour per person.
- Reproduction costs incurred in making photocopies of documents shall be reimbursed at 30 25 cents per exposure. Reproductions of microfilm, microfiche, photographs, films and other materials shall be reimbursed at actual cost.
- Transportation costs incurred in transporting bank personnel to locate and retrieve material, and to convey the material to the place of examination, shall be reimbursed at the rate of 31.5 25-1/2 cents per mile or, if a mail or courier service is used, at the actual cost of such service.
- All other costs, including, but not limited to, telephone calls, telegrams and shipping costs, incurred in searching for, reproducing and transporting data pursuant to a request for financial records, shall be reimbursed at actual cost.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Reverse Mortgage Loans

2) Code Citation: 38 Ill. Adm. Code 300

3) Section Number: 300.20  
Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by Section 5a of the Illinois Banking Act [205 ILCS 5/5a].

5) A complete description of the subjects and issues involved: This rule is based on, and mandated by, Section 5a of the Illinois Banking Act, which was amended by Public Act 88-643. The proposed rulemaking makes the language of Section 300.20 consistent with that statutory change.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending to this Part? No

10) Statement of Statewide Policy Objectives: This rule will not affect local government.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

John Arthur  
Legislative Liaison  
Office of Banks and Real Estate  
500 East Monroe, Suite 900  
Springfield IL 62701-1532  
217/782-3000

The Agency will consider all written comments it receives in writing within 45 days after this publication of the Illinois Register.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

OFFICE OF BANKS AND REAL ESTATE  
NOTICE OF PROPOSED AMENDMENT(S)

- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 1998
- The full text of the Proposed Amendment begins on the next page:

OFFICE OF BANKS AND REAL ESTATE  
NOTICE OF PROPOSED AMENDMENT(S)  
TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE

PART 300  
REVERSE MORTGAGE LOANS

Section	Scope
300.10	Definitions
300.20	Requirements
300.30	

AUTHORITY: Implementing and authorized by Section 5a of the Illinois Banking Act [205 ILCS 5/5a].

SOURCE: Adopted at 3 Ill. Reg. 21, p. 74, effective May 9, 1979; amended at 6 Ill. Reg. 11481, effective September 15, 1982; codified at 7 Ill. Reg. 11709; recodified from Chapter II, Commissioner of Banks and Trust Companies, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 300.20 Definitions

For the purposes of this Part Section the following definitions shall apply:

"Homestead Property" means the domicile and contiguous real estate owned and occupied by the mortgagor.

"Reverse Mortgage Loan" means a loan secured by the existing equity in the homestead property, the proceeds of which are used for the purpose of making home improvements or repair, paying insurance premiums or paying real estate taxes on the homestead property.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## STATE BANKING BOARD

## NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Hearings for Removal of Directors, Officers, Employees or Agents of a State Bank or Corporate Fiduciary

2) Code Citation: 38 Ill. Adm. Code 900

<u>Section Number:</u>	<u>Proposed Action:</u>
900.10	Amendment
900.20	Amendment
900.30	Amendment
900.70	Amendment
900.80	Amendment
900.100	Amendment
900.120	Amendment
900.160	Amendment
900.180	Amendment
900.210	Amendment

4) Statutory Authority: Implementing Section 48(7) of the Illinois Banking Act [205 ILCS 5/48(7)] and Section 5-6 of the Corporate Fiduciary Act [205 ILCS 620/5-6], and Section 6 of the Foreign Bank Representative Office Act [205 ILCS 650/6] and authorized by Section 80(j) of the Illinois Banking Act [205 ILCS 5/80(j)].

5) A complete description of the subjects and issues involved: This rulemaking makes it clear that these hearing procedures apply to orders of prohibition as well as to orders of removal. The rulemaking also specifies that these hearing procedures shall apply to revocations of foreign bank representative office licenses.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending to this Part? No

10) Statement of Statewide Policy Objectives: This rule will not affect local government.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

John Arthur  
Legislative Liaison  
Office of Banks and Real Estate

## STATE BANKING BOARD

## NOTICE OF PROPOSED AMENDMENT(S)

500 East Monroe, Suite 900  
Springfield IL 62701-1532  
217/782-3000

The Agency will consider all written comments it receives in writing within 45 days after the date of this publication of the *Illinois Register*.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendment begins on the next page:

## STATE BANKING BOARD

## NOTICE OF PROPOSED AMENDMENT(S)

## TITLE 38: FINANCIAL INSTITUTIONS

## CHAPTER VII: STATE BANKING BOARD OF ILLINOIS

## PART 900

## HEARINGS FOR REMOVAL OR PROHIBITION OF DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS OF A STATE BANK OR CORPORATE FIDUCIARY OR REVOCATION OF A FOREIGN BANK REPRESENTATIVE OFFICE LICENSE

## Section

900.10	Applicability
900.20	Definitions
900.30	Request for a Hearing
900.40	Hearing Officer
900.50	Notice of Hearing
900.60	Motions
900.70	Answer to the Order of Removal
900.80	Form of Pleadings
900.90	Service
900.100	Appearances
900.110	Consolidation of Hearing Proceedings
900.120	Intervention
900.130	Authority of Hearing Officer
900.140	Prehearing Conferences
900.150	Practice by Telephone
900.160	Subpoenas
900.170	Discovery
900.180	Evidence Depositions
900.190	Conduct of a Hearing
900.200	Evidence
900.210	Record of Hearing Proceedings
900.220	Briefs
900.230	Hearing Officer's Findings of Fact and Conclusions of Law
900.240	Board's Determination
900.250	Construction of Rules

AUTHORITY: Implementing Section 48(7) of the Illinois Banking Act [205 ILCS 5/48(7)], Section 5-6 of the Corporate Fiduciary Act [205 ILCS 620/5-6], and Section 6 of the Foreign Bank Representative Office Act [205 ILCS 650/6] and authorized by Section 80(j) of the Illinois Banking Act [205 ILCS 5/80(j)].

SOURCE: Emergency Rule adopted at 10 Ill. Reg. 15672, effective September 11, 1986, for a maximum of 150 days; chapter number and Part number corrected at 10 Ill. Reg. 20328; adopted at 11 Ill. Reg. 8905, effective April 24, 1987; amended at 12 Ill. Reg. 17074, effective October 11, 1988; amended at 20 Ill. Reg. 11359, effective August 1, 1996; expedited correction at 20 Ill. Reg. 14944, effective August 1, 1996; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## STATE BANKING BOARD

## NOTICE OF PROPOSED AMENDMENT(S)

## Section 900.10 Applicability

This Part shall apply to hearings conducted under the jurisdiction of the State Banking Board of Illinois pursuant to Section 48(7) of the Illinois Banking Act [205 ILCS 5/48(7)], and Section 5-6 of the Corporate Fiduciary Act [205 ILCS 620/5-6], and Section 6 of the Foreign Bank Representative Office Act [205 ILCS 650/6].

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 900.20 Definitions

For purposes of this Part:

"Act" means the Illinois Banking Act [205 ILCS 5/48(7)].

"Board" means the State Banking Board of Illinois.

"Commissioner" means the Office of the Commissioner of Banks and Real Estate.

"Corporate Fiduciary" shall have the meaning ascribed to it in the Corporate Fiduciary Act [205 ILCS 620].

"Foreign Bank" shall have the meaning ascribed to it in Section 2 of the Foreign Bank Representative Office Act [205 ILCS 650/2].

"Hearing Officer" means an attorney licensed in the State of Illinois who is the presiding official appointed by the Board to conduct a hearing.

"Order" means an Order of Removal or an Order of Prohibition pursuant to Section 48(7) of the Illinois Banking Act [205 ILCS 5/48(7)] and Section 5-6 of the Corporate Fiduciary Act [205 ILCS 620/5-6] or a revocation of a Foreign Bank Representative Office license pursuant to Section 6 of the Foreign Bank Representative Office Act [205 ILCS 650/6].

"Party" includes the Commissioner, any person named in an Order of Removal and, after the date of a Ruling permitting the State bank or corporate fiduciary to intervene, the State bank or corporate fiduciary affected by the Order of Removal.

"Person" means any director, officer, employee or agent of a State bank, or corporate fiduciary, or foreign bank.

"Respondent" means the persons person(s) named in the Order of

## STATE BANKING BOARD

## NOTICE OF PROPOSED AMENDMENT(S)

Removal.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 900.30 Request for a Hearing**

A request for a hearing before the Board pursuant to Section 48(7) of the Illinois Banking Act, Section 5-6 of the Corporate Fiduciary Act, or Section 6 of the Foreign Bank Representative Office Act of the Act shall be in writing and shall be received by the Board within 10 days after receipt of the Order of Removal.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 900.70 Answer to the Order of Removal**

- a) An answer to the Order of Removal under Section 48(7) of the Act is not required unless the respondent seeks to contest such Order.
- b) If an order is filed, an answer to the Order of Removal under Section 48(7) of the Act shall be filed with the Board or its duly appointed hearing officer and the Commissioner within 20 days after the day on which the Order of Removal is served upon the respondent.
- c) An answer shall contain an explicit admission, denial or appropriate response to each allegation contained within the Order of Removal.
- d) Allegations in the Order of Removal to which there is no response shall be deemed admitted.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 900.80 Form of Pleadings**

- a) All pleadings shall clearly show the title and docket number of the proceeding in connection with which the pleadings are filed.
- b) All pleadings shall be typewritten on 8 1/2 x 11 inch paper.
- c) Three copies of all pleadings shall be filed with the Board or its duly appointed hearing officer.
- d) One of the three copies of each pleading filed shall be signed by the party or by the attorney representing the party and shall contain the address and telephone number of the individual signing the pleadings.
- e) All pleadings required to be filed with the Board or its duly appointed hearing officer shall be sent either by certified mail, return receipt requested, or by personal delivery to the Board at 500 East Monroe Street, Springfield, Illinois 62701-1532.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## STATE BANKING BOARD

## NOTICE OF PROPOSED AMENDMENT(S)

Appearance.**Section 900.100 Appearances**

- a) A respondent may appear on the respondent's own behalf or may be represented by an attorney.
- b) An attorney representing a respondent shall file, within twenty (20) days from the day on which an Order of Removal has been served upon the respondent, a written notice of appearance with the Board or its duly appointed hearing officer that which notice shall identify the attorney by name, address and telephone number.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 900.120 Intervention**

- a) Upon application by the State bank or corporate fiduciary affected by an Order of Removal, the Board or its duly appointed hearing officer shall, by written Ruling, permit such bank or corporate fiduciary to intervene in a hearing proceeding, if:
  - 1) the Board or its duly appointed hearing officer finds that the representation of the State bank's or corporate fiduciary's interest is or may be inadequate; and
  - 2) the intervention would not delay the proceeding or prejudice the parties.
- b) All Petitions for Intervention shall be in writing and shall be served upon every party and the Board or its duly appointed hearing officer not later than 10 days prior to the date of the hearing.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 900.160 Subpoenas**

- a) Upon application to the Board or its duly appointed hearing officer by any party, the Board or its duly appointed hearing officer shall issue a subpoena for attendance of a witness having knowledge of relevant facts at a deposition or hearing and require the production of any relevant books, papers, accounts and documents in the course of and pursuant to any deposition or hearing under Section 48(7) of the Illinois Banking Act.
- b) Every subpoena shall state the title and docket number of the hearing and shall command each person to whom it is directed to:
  - 1) give testimony;
  - 2) produce books, papers, accounts and documents at the time and place therein specified; or
  - 3) do both the actions specified in subsections (b)(1) and (2)



## STATE BANKING BOARD

## NOTICE OF PROPOSED AMENDMENT(S)

above.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 900.180 Evidence Depositions**

Evidence depositions may be ordered by the Board or its duly appointed hearing officer upon a showing that, at the time of the hearing, the person deposed will not be available to participate in the hearing because of exceptional circumstances such as impending death, illness, imprisonment, or other hardship.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 900.210 Record of Hearing Proceedings**

a) The Board or its duly appointed hearing officer shall appoint a licensed court reporter to make a stenographic transcript of all hearings.

b) The record in a hearing shall include:

1) The items listed in Section 10-35 of the Illinois Administrative Procedure Act [5 ILCS 100/10-35].

2) The transcript of a hearing.

c) The cost of any copy of the transcript requested by any party to the proceeding shall be borne by such party.

d) The record shall be made available for examination by a party to the proceeding at the Commissioner's Springfield office (500 East Monroe Street, Springfield, Illinois 62701-1532) or Chicago office (310 S. Michigan Avenue, Suite 2130, Chicago, Illinois 60604-4278) during regular office officer hours.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Food Stamps

2) Code Citation: 89 Ill. Adm. Code 121

3) Section Numbers: 121.182  
Proposed Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

5) A Complete Description of the Subjects and Issues involved: These proposed amendments add a new eligibility criterion for participation in the Earnfare Component of the Food Stamp Employment and Training Program. The current eligibility criteria for Earnfare participation was established prior to the 60-month TANF limitation. Since there is no reason for a person potentially eligible for TANF to opt for Earnfare instead of TANF, this rulemaking establishes that a person who is potentially eligible for TANF will not be allowed to choose Earnfare in order to delay the 60-month TANF limitation.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Actions</u>	<u>Illinois Register Citation</u>
121.63	Withdrawal	22 Ill. Reg. 7361
121.105	Emergency	22 Ill. Reg. 1954
121.105	New Section	22 Ill. Reg. 1647

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Mrs. Susan Warner Weir, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East

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3rd Floor, Harris Bldg.  
Springfield IL 62762  
(217) 785-9772

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:  
None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: It was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121  
FOOD STAMPS

## SUBPART A: APPLICATION PROCEDURES

Section	
121.1	Application for Assistance
121.2	Time Limitations on the Disposition of an Application
121.3	Approval of an Application and Initial Authorization of Assistance
121.4	Denial of an Application
121.5	Client Cooperation
121.6	Emergency Assistance
121.7	Expedited Services
121.10	Interviews

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.18	Work Requirement
121.19	Ending a Voluntary Quit Disqualification
121.20	Citizenship
121.21	Residence
121.22	Social Security Numbers
121.23	Work Registration/Participation Requirements
121.24	Individuals Exempt From Work Registration Requirements
121.25	Failure to Comply
121.26	Period of Sanction
121.27	Voluntary Job Quit
121.28	Good Cause for Voluntary Job Quit
121.29	Exemptions from Voluntary Quit Rule

## SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.30	Unearned Income
121.31	Exempt Unearned Income
121.32	Education Benefits
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs

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121.52 Earned Income from Roomer and Boarder  
121.53 Income From Rental Property  
121.54 Earned Income In-Kind  
121.55 Sponsors of Aliens  
121.57 Assets  
121.58 Exempt Assets  
121.59 Asset Disregards

## SUBPART D: ELIGIBILITY STANDARDS

Section  
121.60 Net Monthly Income Eligibility Standards  
121.61 Gross Monthly Income Eligibility Standards  
121.62 Income Which Must Be Annualized  
121.63 Deductions From Monthly Income  
121.64 Food Stamp Benefit Amount

## SUBPART E: HOUSEHOLD CONCEPT

Section  
121.70 Composition of the Assistance Unit  
121.71 Living Arrangement  
121.72 Nonhousehold Members  
121.73 Ineligible Household Members  
121.74 Strikers  
121.75 Students  
121.76 Households Receiving AFDC, SSI, Interim Assistance and/or GA -  
Categorical Eligibility

## SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section  
121.80 Fraud Disqualification (Renumbered)  
121.81 Initiation of Administrative Fraud Hearing (Repealed)  
121.82 Definition of Fraud (Renumbered)  
121.83 Notification To Applicant Households (Renumbered)  
121.84 Disqualification Upon Finding of Fraud (Renumbered)  
121.85 Court Imposed Disqualification (Renumbered)  
121.90 Monthly Reporting and Retrospective Budgeting  
121.91 Monthly Reporting  
121.92 Retrospective Budgeting  
121.93 Issuance of Food Stamp Benefits  
121.94 Replacement of the EBT Card or Food Stamp Benefits  
121.95 Restoration of Lost Benefits  
121.96 Uses For Food Coupons  
121.97 Supplemental Payments  
121.98 Client Training for the Electronic Benefits Transfer (EBT) System  
121.105 State Food Program

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121.120 Recertification of Eligibility  
121.130 Residents of Shelters for Battered Women and their Children  
121.131 Fleeing Felons and Probation/Parole Violators  
121.135 Incorporation By Reference  
121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers

## SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section  
121.150 Definition of Intentional Violations of the Program  
121.151 Penalties for Intentional Violations of the Program  
121.152 Notification To Applicant Households  
121.153 Disqualification Upon Finding of Intentional Violation of the Program  
121.154 Court Imposed Disqualification

## SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section  
121.160 Persons Required to Participate  
121.162 Participation and Cooperation Requirements  
121.164 Orientation  
121.166 Assessment and Employability Plan  
121.170 Job Search Component  
121.172 Basic Education Component  
121.174 Job Readiness Component  
121.176 Work Experience Component  
121.178 Job Training Component  
121.180 Grant Diversion Component  
121.182 Earnfare Component  
121.184 Sanctions  
121.186 Good Cause for Failure to Cooperate  
121.188 Supportive Services  
121.190 Conciliation and Fair Hearings  
121.200 Types of Claims (Recodified)  
121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)  
121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)  
121.203 Collecting Claim Against Households (Recodified)  
121.204 Failure to Respond to Initial Demand Letter (Recodified)  
121.205 Methods of Repayment of Food Stamp Claims (Recodified)  
121.206 Determination of Monthly Allotment Reductions (Recodified)  
121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)  
121.208 Suspension and Termination of Claims (Recodified)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by



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Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20,

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1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective

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January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

## Section 121.182 Earnfare Component

- a) Assignment to the Earnfare Component is limited to adults who receive food stamps and who volunteer or are court-ordered to participate.
- b) Eligibility Criteria
  - 1) Eligibility for the Earnfare Component shall be limited to six months out of any 12 consecutive month period except that court-ordered participants shall participate for six months unless the court orders participation for less than six months out of any 12 consecutive month period.
  - 2) Individuals are not entitled to be placed in an Earnfare slot. Earnfare slots shall be made available only as resources permit.
  - 3) To the extent resources permit, the Earnfare program will allow individuals to work for monthly payments and to improve their employability in order to succeed in obtaining employment.
  - 4) Individuals who are receiving or who would be eligible for benefits under Article IV of the Illinois Public Aid Code are not eligible to participate in Earnfare.
- c) Administration and Contracts
  - 1) The Illinois Department shall administer the Earnfare program in Chicago.
  - 2) The Illinois Department may enter into cooperative agreements with local governmental units in selected geographic areas which want to participate in the operation of the Earnfare program outside the City of Chicago. The Department shall establish the

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policies and procedures for the program and monitor Earnfare programs in local governmental units. Local governmental units will be eligible to participate in the operation of an Earnfare program in the following priority order as resources permit:

- A) Local governmental units that receive State funds.
- B) Local governmental units that neither receive State funds nor are under a current contract with the Department will be eligible to contract with the Department to administer Earnfare. The Department will reimburse client payments, transportation and up to 50% of allowable administrative staff costs. The Department will select non-receiving units to participate in the program from the applications received based on, but not limited to, the unemployment rate, percentage of the population receiving food stamps, outreach and recruitment plans, linkage with employers and connection to a court of competent jurisdiction to enable operation of the Non-Custodial Parent/Earnfare Initiative.
- 3) The Illinois Department may enter into contracts with other public agencies including State agencies, local governmental units, and not-for-profit community based organizations to help develop Earnfare opportunities and otherwise administer the program.
- 4) The Illinois Department may enter into contracts with community based organizations as comprehensive providers to administer and operate Earnfare in the City of Chicago.
- 5) The Illinois Department shall provide Worker's Compensation coverage for each individual assigned to Earnfare.
  - d) Notification and Referrals
    - 1) In areas where an Earnfare program is operating, when the Illinois Department or the local governmental unit learns that individuals are in the following categories, it shall inform them in writing and, whenever possible, orally of the existence of Earnfare and the method for requesting an Earnfare referral.
      - A) Households approved or certified for non-assistance food stamps which do not have net food stamp income in excess of \$154.00 per month;
      - B) All persons denied or terminated from State Transitional Assistance because they are employable; and
      - C) All Earnfare participants shall be given a written notice at the time they leave the Earnfare program specifying when they will re-qualify.
    - 2) The Illinois Department, comprehensive providers and participating downstate units shall make referrals to the Earnfare program as follows:
      - A) Any person may request a referral.
      - B) Exempt and nonexempt food stamp individuals and individuals not receiving food stamps who are non-custodial parents of AFDC children may be ordered by a court of competent



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- jurisdiction to participate in the Earnfare Component.
- C) Within 30 days after a request for an Earnfare referral:
- i) persons who do not qualify for the Earnfare program shall be given or sent a notice informing them that they do not qualify and will not receive a referral;
  - ii) persons who request a referral and who qualify for the Earnfare program shall be provided with a written document that acknowledges the request and informs the individual that he/she is qualified.
- 3) Within 30 days after notice of eligibility, individuals shall be assessed and referred to appropriate Earnfare slots, if slots are available.
- e) For the purposes of Earnfare, a "suitable" Earnfare slot must meet the following requirements:
- 1) there are no questions as to the individual's ability to engage in such employment for medical reasons or because the individual has no way to get to or from the particular job;
  - 2) there are no questions of working conditions, such as risks to health, safety, or lack of worker's compensation protection;
  - 3) the individual may not be required, as a condition of employment, to join, resign from, or refrain from joining any legitimate labor organization;
  - 4) there is no unreasonable degree of risk to the individual's health and safety; and
  - 5) the individual is physically and mentally competent to perform the work.
- f) Individuals participating in Earnfare shall not displace or substitute for regular, full-time or part-time employees, regardless of whether the employee is currently working, on a leave of absence, or in a position or similar position where a layoff has taken place or the employer has terminated the employment of any regular employee or otherwise reduced its work force with the effect of filling the vacancy so created with an individual subsidized under this program, or is or has been involved in a labor dispute between a labor organization and the sponsor.
- g) Entry into the Component
- 1) Individuals shall be referred to suitable Earnfare slots with local governmental units, not-for-profit community based and local organizations, other public agencies, including State agencies, and with private employers.
  - 2) To the extent appropriate slots are available, individuals will be referred to suitable Earnfare activities based on an assessment of the individual's age, literacy, education, educational achievement, job training, work experience, and recent institutionalization, whenever these factors are known and are relevant to the individual's success in carrying out the assigned activities and in ultimately obtaining employment. The Department or the participating local governmental unit shall

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- discuss with the individual available Earnfare assignments, together with any restrictions and qualifications the Earnfare employers have specified for the assignments. The individual's personal preferences for available Earnfare assignments and the individual's employment goals shall be ascertained and considered in making the Earnfare referral.
- 3) The Department, comprehensive providers and local governmental units shall maintain up-to-date public listings by area of Earnfare employers and current information regarding openings in those projects. These listings and the information shall be available to the public, in writing or by phone, during regular business hours.
- h) Payments
- 1) Individuals participating in Earnfare shall engage in hours of work equal to the amount of the food stamp benefits divided by the federal minimum wage up to a maximum of 26 hours and subsequently shall earn assistance at minimum wage for each additional hour of performance in Earnfare activity, up to a maximum of \$231.00 per month. Effective October 1, 1996, the date the federal minimum wage is increased to \$4.75 per hour, individuals participating in Earnfare shall be able to earn a maximum of \$261.00 per month. Effective September 1, 1997, the date the federal minimum wage is increased to \$5.15 per hour, individuals participating in Earnfare shall be able to earn a maximum of \$294.00 per month. An individual is considered to have participated in Earnfare in any month he or she earns a payment.
  - A) If a court of competent jurisdiction orders an individual to participate in the Earnfare program, hours engaged in employment-assigned activities multiplied by the federal minimum wage shall first be applied as a \$50.00 payment made to the custodial parent as a support obligation. If the individual receives food stamps, the individual shall engage in hours of employment-assigned activities equal to the amount of the food stamp benefits divided by the federal minimum wage up to a maximum of 26 hours and subsequently shall earn assistance at minimum wage for each additional hour of performance in Earnfare activity. The individual can earn a maximum of \$231.00 each month including the amount of the support obligation. Effective October 1, 1996, the date the federal minimum wage is increased to \$4.75 per hour, individuals participating in Earnfare shall be able to earn a maximum of \$261.00 each month, including the amount of the support obligation. Effective September 1, 1997, the date the federal minimum wage is increased to \$5.15 per hour, individuals participating in Earnfare shall be able to earn a maximum of \$294.00 per month, including the amount of the support obligation.



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- B) Individuals will be assigned hours of Earnfare based upon their initial food stamp authorization amount. An individual living in a multi-person food stamp household shall be deemed to be receiving a per capita share of the household's food stamp allotment, for purposes of calculating the Earnfare hours.
- C) During an individual's Earnfare participation, the Department or the local governmental unit shall alter the Earnfare hours each time the individual's monthly food stamp benefit changes by at least \$20.00, effective the same month as the change in the food stamp benefit. Individuals and contractors will be notified by the Department or the local governmental unit of the number of hours of work to be performed by an individual in Earnfare.
- 2) Individuals remain financially eligible for Earnfare and Earnfare job search activity so long as they receive food stamps. Receipt of food stamps is not an eligibility requirement of Earnfare when a court of competent jurisdiction orders an individual to participate who is a non-custodial parent of AFDC children.
- 3) The Department may pay participants directly or may contract for the Earnfare employer to pay the individual. Payments shall be made no less frequently than monthly. Individuals shall be paid only for the hours they have actually worked in excess of the food stamp hours of work obligation and, if ordered by a court of competent jurisdiction, in excess of food stamp hours and the support obligation.
- 4) Individuals shall be credited with hours of work that the Earnfare employer certifies them to have completed, according to criteria set forth in the contract with the Illinois Department, comprehensive providers or the local governmental unit. The Department, comprehensive providers or the local governmental unit staff shall attempt to resolve disputes between the Earnfare employer and the individual when there is disagreement over the number of hours worked. If the dispute cannot be resolved, the individual may utilize the Illinois Department's appeal process.
- 5) The Illinois Department or the provider shall, in advance, provide individuals participating in Earnfare who need transportation with the cost of transportation in getting to and from the Earnfare site and to Earnfare participants who are not in the job search component for specific job interviews arranged by their Earnfare employer. Individuals obtaining unsubsidized employment while participating in Earnfare may be eligible for initial employment expenses as stated in Section 121.188.
- 6) Participants in the Earnfare job search activity are eligible for employer contact related expenses not to exceed \$20.00 every 30 days for a maximum of two months in a 12 consecutive month period.
- 7) The Illinois Department will provide necessary clothing to enable

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- i) Participation Requirements
  - 1) Individuals may volunteer to participate in Earnfare and participation shall be limited to only six months out of any 12 consecutive month period except that court-ordered participants shall participate for six months unless the court orders participation for less than six months out of any 12 consecutive month period. Individuals participating in Earnfare shall engage in hours of work equal to the amount of the food stamp benefits divided by the federal minimum wage up to a maximum of 26 hours and subsequently shall earn assistance at minimum wage for each additional hour of work up to a maximum of \$231.00 per month. Effective October 1, 1996, the date the federal minimum wage is increased to \$4.75 per hour, individuals participating in Earnfare shall be able to earn a maximum of \$261.00 per month. Effective September 1, 1997, the date the federal minimum wage is increased to \$5.15 per hour, individuals participating in Earnfare shall be able to earn a maximum of \$294.00 per month.
    - A) If a court of competent jurisdiction orders an individual to participate in the Earnfare program, hours engaged in employment-assigned activities multiplied by the federal minimum wage shall first be applied as a \$50.00 payment made to the custodial parent as a support obligation. If the individual receives food stamps, the individual shall engage in hours of employment-assigned activities equal to the amount of the food stamp benefits divided by the federal minimum wage up to a maximum of 26 hours and subsequently shall earn assistance at minimum wage for each hour of performance in Earnfare activity up to \$231.00 including the amount of the support obligation. Effective October 1, 1996, the date the federal minimum wage is increased to \$4.75 per hour, individuals participating in Earnfare shall be able to earn a maximum of \$261.00 each month, including the amount of the support obligation. Effective September 1, 1997, the date the federal minimum wage is increased to \$5.15 per hour, individuals participating in Earnfare shall be able to earn a maximum of \$294.00 per month, including the amount of the support obligation.
    - B) Individuals participating in Earnfare first work the number of hours equal to food stamp benefits and subsequently earn financial assistance benefits.
  - 2) Individuals are required to report as scheduled and on time to their Earnfare employer when notified of a referral. When they cannot report to their Earnfare assignment or if they will be late, they are to immediately notify their Earnfare employer.
  - 3) If the individual demonstrates an inability to sustain the work that has been assigned and the Earnfare assignment was

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appropriate to the individual's abilities, the Illinois Department shall re-assess the individual and, if appropriate, shall refer the person to apply for Transitional Assistance or federal SSI benefits. If the person is ordered by a court of competent jurisdiction to participate in the Earnfare Component, that person shall also be referred back to the court when unable to perform the work that has been assigned.

- 4) An individual may be dismissed by the employer from an Earnfare assignment prior to its completion. The Department, comprehensive providers or local governmental unit shall return an individual dismissed by an employer to the client pool. An individual dismissed by an employer shall be treated as a new program entrant for the purpose of Earnfare assignments. A dismissal from an Earnfare assignment shall not cause a food stamp sanction.
- 5) During Earnfare assignment, individuals are required to accept bona fide offers of suitable employment pursuant to Section 121.162(c)(4).
- 6) During the Earnfare assignment participants are required to apply for suitable jobs for which the provider makes a referral.
- 7) Earnfare clients may participate in a voluntary job search activity as resources permit. There are no sanctions for failure to comply. Earnfare clients may participate for two months in a 12 consecutive month period, either concurrently or following the six-month eligibility period for Earnfare. Clients are required to make a minimum of 20 employer contacts each month while in the Earnfare job search activity.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment
- 2) Code Citation: 89 Ill. Adm. Code 686
- 3) Section Numbers: Proposed Action:  
686.10 Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

5) A Complete Description of the Subjects and Issues involved: The Department of Human Services is amending Section 686.10(h)(6) to increase the circumstances in which the customer's P.A. services can be provided in instances previously not allowed. The amendment eliminates instances where the rules limited the activities the customer could undertake by not allowing these services to be reimbursed by DHS - Home Services Program (HSP). Specifically, this amendment will make the Personal Assistants (PA) Service provided to the customer while he/she is at work, traveling outside the home and, for persons with the most severe disabilities, while he/she is hospitalized. This revision removes any disincentives to employment by allowing the PA to provide personal care while the eligible customer is at work. The amendment also increases the individual's freedoms by allowing PA service, included in the Service Plan, to be provided when the customer travels away from the home. This will allow customers traveling to conventions, vacations, and for work, to continue to receive the personal care services described in the HSP service plan.

Section 686.10(1) is being amended to add a new requirement which would inform the P.A. that he/she may be asked by the customer to give permission for the customer to request a conviction background check on the prospective P.A.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Register. All requests and comments should be submitted in writing to:

Ms. Susan Warner Weir, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
3rd Floor, Harris Bldg.  
Springfield, Illinois 62762  
Telephone number: 217/785-9772  
TTY: 217/557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: At the time of the development of the January 1998 Regulatory Agenda, this amendment was not anticipated.

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER d: HOME SERVICES PROGRAM

## PART 686

PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

## SUBPART A: PERSONAL ASSISTANTS

Section  
686.10  
686.20  
686.30  
686.40

Personal Assistant (PA) Requirements  
Services Which May Be Provided by a PA  
Annual Review of PA Performance  
Payment for PA Services

## SUBPART B: ADULT DAY CARE PROVIDERS

Section  
686.100  
686.110  
686.120  
686.130  
686.140

Adult Day Care (ADC) Provider Requirements  
Services Which Must Be Provided by ADC Providers  
Annual Compliance Review of ADC Providers  
Appeal of Compliance Review for ADC Providers  
Payment for ADC Services

## SUBPART C: HOMEMAKER SERVICES

Section  
686.200  
686.210  
686.220  
686.230  
686.240

Homemaker Service Provider Requirements  
Services Which Must Be Provided by Homemaker Agencies  
Annual Compliance Review of Homemaker Agencies  
Appeal of Compliance Review for Homemaker Agencies  
Payment for Homemaker Services

## SUBPART D: ELECTRONIC HOME RESPONSE SERVICES

Section  
686.300  
686.310  
686.320  
686.330  
686.340  
686.350

Electronic Home Response Services (EHRs) Provider Requirements  
Services Which Must Be Provided by EHRs Providers  
Minimum Specifications for EHRs Equipment  
Annual Compliance Review of EHRs Providers  
Appeal of Compliance Review for EHRs Providers  
Rate of Payment for EHRs Services

## SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section  
686.400  
686.410

Maintenance Home Health Provider Requirements  
Rate of Payment for Maintenance Home Health Services



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART F: HOME DELIVERED MEALS

Section  
686.500 Home Delivered Meals Provider Requirements  
686.510 Rate of Payment for Home Delivered Meals

## SUBPART G: ENVIRONMENTAL MODIFICATION

Section  
686.600 Environmental Modification Provider Requirements  
686.610 Cost of Environmental Modification  
686.620 Permanency of Environmental Modification  
686.630 Reason for Denial of Environmental Modification  
686.640 Verification of Environmental Modification

## SUBPART H: ASSISTIVE EQUIPMENT

Section  
686.700 Assistive Equipment Provider Requirements  
686.710 Provision of Assistive Equipment  
686.720 Verification of Receipt of Assistive Equipment

## SUBPART I: RESPITE CARE

Section  
686.800 Respite Care Provider Requirements

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5104, effective March 21, 1995; amended at 20 Ill. Reg. 12479, effective August 28, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: PERSONAL ASSISTANTS

## Section 686.10 Personal Assistant (PA) Requirements

In order to be employed by a customer as a PA (89 Ill. Adm. Code 676.30(q)), an individual must:

- a) have a Social Security number and provide DHS with documented verification of this number;
- b) be a minor between 14 and 16 years of age who is not employed during school hours, has an employment certificate and meets all other requirements of the Child Labor Law [820 ILCS 205] and has an adult who is at least 21 years of age and who is legally responsible for the customer who will supervise the PA; be 16 years of age or older,

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

enrolled in school and not employed during school hours; or be 17 years of age or older and not enrolled in school;  
c) have provided to the customer at least two written or verbal recommendations from present or former employers, the recommendation of a Center for Independent Living (CIL), or, if never employed, references from at least two non-relatives;

d) be able to communicate with the customer to the satisfaction of the customer and counselor;

e) be able to follow directions to the satisfaction of the customer and counselor;

f) have previous experience and/or training that is adequate and consistent with the specific tasks required for safe and adequate care of the customer;

g) if the customer has a contagious infectious disease, have a physician, health care institution (i.e., hospital, nursing home, home health agency), or CIL certify, in writing, that he/she has the knowledge of precautionary procedures for the control of contagious infectious diseases, if it is anticipated that he/she will come into contact with bodily fluids, or be evaluated by a Registered Nurse licensed pursuant to the Illinois Nursing Act of 1987 [225 ILCS 65] to determine that he/she has knowledge of such procedures;

h) complete a Client/Provider Agreement (IL 488-1947) (the IL 488-1947 is signed by the customer and PA showing mutual acceptance) which certifies the PA:

1) shall provide services to the individual in accordance with his/her Service Plan (IL 499-1049) (89 Ill. Adm. Code 676.30(u) 676-204t);

2) submit a monthly calendar listing actual hours worked each pay period (1-15; 16-last working day of the month), as verified by the customer and in accordance with the number of hours authorized by DHS. The PA shall not claim more hours than approved by DHS unless prior approval has been granted by the counselor to address a temporary increased service need;

3) shall make available to DHS and other designated agencies those records described in subsection (h)(2) above;

4) shall maintain all customer information as confidential and not for release, either in writing or verbally, to anyone other than those designated by DHS in writing;

5) shall not subcontract to any other person any of the services he/she has agreed to provide;

6) shall provide services only while the individual is in his/her home and report to DHS any absence of the customer--from--his/her home--(89--Ill--Adm--Code--676-204t) or during the period covered by Section 684.60 (Provision of Services) a-Service-Plan-(89--Ill--Adm--Code--684);

7) as a PA providing services to a customer of HSP, agree that the customer is responsible for locating, choosing, supervising, training, and disciplining as necessary, the PA. Further, that

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

the State of Illinois does not provide paid vacation, holiday, or sick leave; however, such absences shall be reported to the DHS counselor per the Documentation of Services (IL 488-2251) only for the purposes of processing payment;

- 8) understands that DHS reports all payments made to a PA to the Illinois Department of Employment Security (DES) and that the PA may apply for unemployment benefits, but DES, not DHS, makes the determination as to whether the PA shall receive benefits;
- 9) understands that he/she may apply for Workers' Compensation benefits through DHS and that some customers may carry such insurance coverage; however, DHS maintains that the customer, not DHS, is the employer for these purposes; and
- 10) understands that DHS will withhold Social Security tax (FICA) from payments made to him/her. Federal and State income tax shall be withheld if the PA completes and returns to DHS two separate W-4 forms;
- i) complete an I-9 Immigration form, which must be retained by the customer;
- j) for PAs starting on or after April 13, 1992, complete a PA Standards (IL 488-2112) to be returned to DHS; and
- k) as of April 13, 1992, at the time of redetermination of eligibility of the customer by which he/she is employed, have completed by the customer, a Personal Assistant Evaluation (IL 488-2089); and-
- l) if requested by the customer, give permission and the necessary information for the customer to request a conviction background check from the Illinois State Police. This permission will require the Prospective PA to sign the appropriate form provided by the customer.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Related Program Provisions
- 2) Code Citation: 89 Ill. Adm. Code 117
- 3) Section Numbers: Proposed Action:  
117.15 Amendment
- 4) Statutory Authority: Section 11-16 of the Illinois Public Aid Code [305 ILCS 5/11-16].
- 5) A Complete Description of the Subjects and Issues involved: Pursuant to provisions in 305 ILCS 5/11-16, these proposed amendments revise the provisions for reinstatement upon cooperation when financial aid is reduced or terminated due to the failure of the client to cooperate with the Department. A client whose case has been canceled for failure to cooperate may be eligible to have assistance reinstated. To have assistance reinstated, the client must actually cooperate within 10 working days after the first day the financial aid would have been available. The reinstatement will be retroactive to the date the change or termination of the grant occurred, provided the client is not otherwise ineligible for financial assistance for the period in question.
- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Mrs. Susan Warner Weir, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
3rd Floor, Harris Bldg.  
Springfield IL 62762  
(217) 785-9772

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: It was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER IV: DEPARTMENT OF HUMAN SERVICES

## SUBCHAPTER vv: DISTRICT, COUNTY, TOWNSHIP AND SPECIAL ACT

## MUTUAL COMPANIES

## SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

## PART 117

## RELATED PROGRAM PROVISIONS

## Section

- 117.1 Incorporation By Reference
- 117.10 Payee for Financial Assistance
- 117.11 Issuance of Cash Assistance Benefits
- 117.12 Client Training for the Electronic Benefits Transfer (EBT) System
- 117.13 Replacement of the EBT Card
- 117.15 Reinstatement Upon Cooperation Agreement-to-Cooperate
- 117.20 Replacement of Missing Warrants
- 117.30 Withholding of Rent (Repealed)
- 117.40 Recovery of Interim Assistance - Aid to the Aged, Blind or Disabled and General Assistance
- 117.50 Funerals and Burials
- 117.51 Funeral Home Services
- 117.52 Burial Expenses
- 117.53 Payment to Vendor(s)
- 117.54 Claims for Reimbursement
- 117.55 Submittal of Claims
- 117.60 Substitute Parental Care/Supplemental Child Care - AFDC, AABD and GA Family Cases
- 117.70 Charge for Replacement of Photo ID Cards (Repealed)
- 117.80 Direct Deposit of Recipients' Warrants
- 117.90 State Income Tax Match

AUTHORITY: Implementing Articles III, IV and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV and VI, and 12-13].

SOURCE: Filed and effective December 30, 1977; amended at 2 Ill. Reg. 31, p. 68, effective August 3, 1978; amended at 3 Ill. Reg. 38, p. 258, effective September 20, 1979; amended at 3 Ill. Reg. 41, p. 167, effective October 1, 1979; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 16111, effective November 22, 1983; amended at 9 Ill. Reg. 3726, effective March 13, 1985; amended at 9 Ill. Reg. 4526, effective March 20, 1985; amended at 9 Ill. Reg. 8733, effective May 29, 1985; amended at 9 Ill. Reg. 10779, effective July 5, 1985; amended at 9 Ill. Reg. 16914, effective October 16, 1985; amended at 11 Ill. Reg. 4759, effective March 13, 1987; amended at 12 Ill. Reg. 2985, effective January 13, 1988; amended at 12 Ill. Reg. 13608, effective August 15, 1988; amended at 12 Ill. Reg. 14296, effective August 30, 1988; amended at 13 Ill. Reg. 3936, effective March 10, 1989; amended at 14 Ill. Reg. 780,



## DEPARTMENT OF HUMAN SERVICES

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effective January 1, 1990; amended at 14 Ill. Reg. 9488, effective June 1, 1990; amended at 15 Ill. Reg. 13533, effective August 1, 1991; amended at 16 Ill. Reg. 16644, effective October 23, 1992; emergency amendment at 17 Ill. Reg. 2368, effective February 8, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 8191, effective May 24, 1993; amended at 18 Ill. Reg. 3746, effective February 28, 1994; amended at 18 Ill. Reg. 7403, effective April 29, 1994; amended at 19 Ill. Reg. 1103, effective January 26, 1995; amended at 19 Ill. Reg. 10702, effective July 7, 1995; emergency amendment at 19 Ill. Reg. 15267, effective November 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 877, effective January 1, 1996; amended at 20 Ill. Reg. 5706, effective March 30, 1996; emergency amendment at 20 Ill. Reg. 10381, effective July 23, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 395, effective December 20, 1996; amended at 21 Ill. Reg. 7759, effective June 4, 1997; emergency amendment at 21 Ill. Reg. 8677, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Health to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15591, effective November 26, 1997; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 117.15 Reinstatement Upon Cooperation Agreement-to-Cooperate

a) When financial aid is reduced or terminated due to the failure of the client to cooperate with the Department and the client, within ten working days after the first day the financial aid would have been available, cooperates ~~indicates--his-or-her-willingness-to-cooperate~~ with the Department, the financial aid shall be reinstated in full. The ~~reinstatement is~~ retroactive to the date the change or termination of the grant occurred, provided the client is not otherwise ineligible for financial assistance for the period in question.

b) Failure to cooperate includes but is not limited to:

- 1) failure to keep an appointment;
- 2) failure to attend a meeting;
- 3) failure to produce proof or verification of eligibility or need in response to a Department request to contact it; or
- 4) failure to be available for a home visit.

c) When a client whose benefits have been reduced or terminated for failure to cooperate contacts the Department about the termination or reduction within ten working days after the first day the financial aid would have been available, the Department shall inform the client that his or her financial assistance will be reinstated if he or she cooperates. ~~indicates--a-willingness-to-cooperate---the-client-shall-be-deemed-willing-to-cooperate-with-the-Department--when-he-or-she-makes--contact--with--the-Department--for--the-purpose-of-speaking-to-appropriate-staff-and-indicating-a-willingness-to-cooperate-~~

d) The client's cooperation ~~willingness---to---cooperate-~~ shall be demonstrated by his or her attendance at willingness-to-attend a rescheduled appointment or meeting, producing needed proof or

## DEPARTMENT OF HUMAN SERVICES

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verification, ~~attempting agreeing-to-attempt~~ to obtain needed proof or verification, asking for help in obtaining proof or verification or seeking whatever is needed to determine continued eligibility.

e) ~~if-the-client-fails-to-cooperate-a-second-time--for--the--same--reason--after-being-reinstated-once-under-this-Section--assistance-will-not-be-reinstated--again-until-the-client-actually-cooperates---if-the-client-expresses-a-willingness-to-cooperate-within-ten-working-days-after-the-first-day-the-financial-aid-would-have-been-available--and--actually-cooperates---the--financial-aid--will--be--reinstated--in--full--as-in-subsection-(a)-of-this-Section-~~

e)f) The policy in this Section does not apply in the case of sanctions imposed due to the failure of a client to participate, as required, in the child support enforcement program (see 89 Ill. Adm. Code 160) or in any educational, training or employment program conducted through the Department.

f)g) The policy in this Section also does not apply to any cancellation, revocation, reduction, termination or sanction imposed for the failure of any recipient to cooperate in the quarterly reporting process.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Health and Safety
- 2) Code Citation: 56 Ill. Adm. Code 350
- 3) Section Numbers:  
350.280 Proposed Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by the Safety Inspection and Education Act (SIEA) [820 ILCS 220] and the Health and Safety Act (HSA) [820 ILCS 225].
- 5) A Complete Description of the Subjects and Issues Involved: Section 4(d) of the HSA mandates the Illinois Department of Labor's (IDOL) adoption of all safety and health standards (OSH rules) promulgated, modified, or revoked by the Occupational Safety and Health Administration (OSHA) under the Occupational Safety and Health Act of 1970 (OSH Act) (29 USC 651-678 (1998)), unless IDOL promulgates alternative rules providing at least as effective health and safety standards as the OSH rules. The provision for alternative State standards requires IDOL to establish, through the best available scientific evidence, that such standards are (and will continue to be) at least as effective as the OSH rules. IDOL's most recent amendment to Section 350.280(a) of this Part adopted by reference all final OSH rules and amendments published in 29 CFR 1910, 1915 and 1926, effective July 1, 1996. See 21 Ill. Reg. 12850, 12853 (Sept. 19, 1997).

This proposed rulemaking amends Section 350.280(a) of this Part by adopting by reference all final OSH rules published in 29 CFR 1910, 1915 and 1926, effective April 8, 1998. IDOL did not develop alternative State standards to the OSH rules because adopting current OSH rules ensures: (1) public sector workers have the same level of protection afforded to private sector workers within the State of Illinois; and (2) Illinois' public sector employers benefit from the updating, clarification, or elimination of OSH rules that IDOL incorporated by reference in previous amendments to Section 350.280(a). In addition, the methodology required to promulgate alternative rules exceeds IDOL's resources. Twenty-five states (including Indiana, Kentucky, and Michigan) will adopt the standards within six months of their publication dates. The proposed amendments to Section 350.280(a) are described below:

- A) FR 62:40142-40234 Longshoring and Marine Terminals; Final Rules 7/25/1997

**SUMMARY:** The standards replace the longshoring standard OSHA adopted in 1971 and revises the parallel sections in its marine terminal standards. The longshoring standard addresses cargo handling and related activities conducted aboard vessels. Marine terminal standards address landslide operations at marine terminals.

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

Specifically, the standards contain requirements for: testing and certifying cargo lifting appliances, associated auxiliary gear, and other cargo handling equipment such as conveyors and industrial trucks; access to vessels; entry into hazardous atmospheres; working surfaces; and the use of personal protective equipment. The standards also address specialized longshoring operations such as containerized cargo, logging, and roll-on/roll-off (Ro-Ro) operations. The principal hazards the standards address are injuries and fatalities associated with cargo lifting gear, transfer of vehicular cargo, manual cargo handling, and exposure to hazardous atmospheres. They also address hazards posed by modern and sophisticated cargo handling methods, such as intermodalism.

Nationally, the standards affect 93,427 workers and 3,700 employers. OSHA expects the standards will prevent 1,262 injuries and 3 fatalities per year. OSHA estimates the standards will save employers more than \$7 million annually (reducing lost workdays due to injuries), and will cost employers \$3.1 million annually (increasing the cost of shipping a loaded container at a U.S. port by less than 50 cents).

OSHA EFFECTIVE DATE: January 21, 1998

- B) FR 62:42018 Air Contaminants; Corrections 8/4/1997

**SUMMARY:** The rulemaking corrects typographical errors (which may prove to be misleading) in the table containing limits for air contaminants and the table on mineral dust, published in 58 FR 35338 on June 30, 1993, codified at 29 CFR 1910.1000, Tables Z-1, Z-2, and Z-3. There is no financial impact.

OSHA EFFECTIVE DATE: September 3, 1997

- C) FR 63:1152-1300 Respiratory Protection; Final Rule 1/8/1998

**SUMMARY:** The standard updates and replaces the respiratory protection standard OSHA adopted in 1971. The revised standard reflects changes in methodology, technology, and approaches related to respiratory protection. The standard applies to general industry, construction, shipyard, longshoring, and marine terminal workplaces.

Specifically, the standard contains requirements for: employers to establish or maintain a written respiratory protection program to protect their respirator-wearing employees; program administration; worksite-specific procedures; respirator selection; employee training; fit testing; medical evaluation; respirator use; respirator cleaning, maintenance, and repair; and other provisions. The standard also simplifies respirator requirements for employers by deleting

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

respiratory provisions in other OSH rules that duplicate those in this standard and revising other respirator-related provisions to make them consistent.

In addition, the standard addresses the use of respirators in "Immediately Dangerous to Life or Health" (IDLH) atmospheres, including interior structural firefighting. Self-contained breathing apparatus is required during interior structural firefighting. The standard also requires a "double-buddy" or "two in/two out" system, whereby firefighters must enter burning structures in pairs and two firefighters must be on standby to provide assistance or perform rescue when the two firefighters are inside the structure. The firefighters entering the structure must remain in visual and voice contact with each other at all times.

Nationally, the standard affects 5 million respirator wearers working in an estimated 1.3 million workplaces. OSHA expects the standard will annually prevent 289 to 1,187 inhalation injuries/illnesses and 554 to 8,095 chronic respiratory illnesses yearly, with a best estimate of 4,046 injuries and illnesses prevented per year. OSHA estimates this reduction will save employers \$18.8 to \$218 million per year, with a best estimate of \$93.9 million annually. It also estimates averting 203 to 835 cancer deaths and 125 to 845 deaths related to cardiovascular disease annually, with a best estimate of 932 lives saved per year. It estimates the standard will cost employers \$11 million per year (\$22 per covered employee), with 90% of the costs pertaining to fit testing (\$67 million) and annual training (\$35.9 million). IDOL provides free training to the State of Illinois and its political subdivisions. This reduces the estimated compliance costs for the rulemaking by 35%, or to \$14 per covered employee.

OSHA EFFECTIVE DATE: April 8, 1998

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporation by reference? Yes. The proposed rule incorporates the standards located in 29 CFR 1910, 1915 and 1926, effective April 8, 1998. It does not include any later amendments or editions.
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Please see answer to question 5.

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:

Scott D. Miller, Chief Legal Counsel  
Illinois Department of Labor  
160 North LaSalle Street, Suite C-1300  
Chicago IL 60601  
(312) 793-1805

A Public Hearing is scheduled on:

Tuesday, June 30, 1998, at 1:00 P.M.  
Illinois Department of Labor  
160 North LaSalle Street, Suite C-1300  
Chicago, Illinois 60601

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses or municipalities affected: Private employers are not affected by the proposed rulemaking. The proposal does, however, affect the State of Illinois and its political subdivisions. See 820 ILCS 220/2(a); 820 ILCS 225/2; 56 Ill. Adm. Code 350.20(b). See also *AFSCME v. Bernardi*, Case No. 85 CH 11947 (Cook Cty. Cir. Ct., May 25, 1985) (commanding IDOL to include units of local government within the regulatory definition of "employer").

Costs associated with compliance are related to correcting work site health and safety hazards. They will have a direct and positive impact within the public sector work force.

The public sector will realize savings resulting from fewer workplace injuries and occupational diseases, lower replacement employee costs, and increased employee productivity due to fewer lost work days and a healthier work force.

Section 4(e) of the HSA and Section 350.190 of this Part allow public sector employers to petition for variance from standards when compliance cannot be achieved because of factors beyond their control.

B) Reporting, bookkeeping, or other procedures required for compliance: The revised respiratory standard (See answer to question 5(B)) expands, reorders, and updates the paperwork requirements under the 1971 standard. OSHA estimates the paperwork will require an average of 2.21 hours per response, and approximately 6.87 hours per employer.

C) Types of professional skills necessary for compliance: General administrative skills are sufficient for compliance with the proposed



## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

amendments.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas, but was included in the July 1996 agenda.

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER I: DEPARTMENT OF LABOR  
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS  
PART 350  
HEALTH AND SAFETY

## SUBPART A: INSPECTIONS AND CITATIONS

Section	
350.10	Purpose and Scope
350.20	Definitions
350.30	Posting of Notice
350.40	Availability of Rules and Standards
350.50	Inspection Authority
350.60	Advance Notice of Inspection
350.70	Conduct of Inspections
350.80	Closing Conferences
350.90	Representatives of Employers and Employees
350.100	Objections During Inspection
350.110	Trade Secrets or Confidential Information
350.120	Consultation with Employees
350.130	Complaints by Employees
350.140	Imminent Danger
350.150	Citations
350.160	Posting of Citations
350.170	Appeal of Citation
350.180	Appeal of Abatement Period
350.190	Petition for Variance from Standards
350.195	Hearings
350.200	Advisory Inspections

## SUBPART B: RECORDS OF INJURIES AND ILLNESSES

Section	
350.210	Emergency Notification
350.220	Recordable Injuries and Illnesses
350.230	Log of Injuries and Illnesses
350.240	Supplementary Record of Injuries and Illnesses
350.250	Annual Summary
350.260	Retention of Records
350.270	Access to Records

## SUBPART C: FEDERAL STANDARDS

Section	
350.280	Adoption of Federal Standards

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

**AUTHORITY:** Implementing and authorized by the Safety Inspection and Education Act [820 ILCS 220] and the Health and Safety Act [820 ILCS 225].

**SOURCE:** Emergency rules adopted at 9 Ill. Reg. 17004, effective October 17, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 8765, effective May 14, 1986; amended at 11 Ill. Reg. 2798, effective January 28, 1987; amended at 12 Ill. Reg. 17086, effective October 11, 1988; amended at 16 Ill. Reg. 8518, effective May 26, 1992; amended at 17 Ill. Reg. 1074, effective January 19, 1993; emergency amendment at 17 Ill. Reg. 7072, effective April 27, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 14724, effective September 15, 1994; amended at 19 Ill. Reg. 11923, effective August 7, 1995; amended at 20 Ill. Reg. 7419, effective May 10, 1996; amended at 21 Ill. Reg. 12850, effective September 4, 1997; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: FEDERAL STANDARDS

## Section 350.280 Adoption of Federal Standards

- a) Pursuant to Section 4 of the Health and Safety Act, the Department hereby adopts by reference the general health and safety standards and special maritime and construction industry standards adopted by the federal Occupational Safety and Health Administration as effective April 8, 1998 and amended at FR63:1152; FR62:42018; and FR62:40142 ~~July 17, 1996--and--amended--at--FR61:41738;--FR61:43454;--FR61:46925;--FR61:56796;--FR61:59831;--and--FR62:1494.~~ These standards are located at 29 CFR 1910, 1915, and 1926 and do not include any later amendments or editions.
- b) The Department shall consider any subsequent amendments to the health and safety standards adopted by the federal Occupational Safety and Health Administration. Such amendments will be adopted by reference, or substitute provisions which provide equivalent protection will be adopted. Amendments will be adopted through filing with the Secretary of State and publication in the Illinois Register as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].
- c) The Department hereby adopts as a rule of the Department, through incorporation by reference, 29 CFR Part 1910.1030, Occupational Exposure to Bloodborne Pathogens (1991, no later amendments or editions). The dates listed in paragraph (i) of 29 CFR Part 1910.1030 are not applicable to Illinois public sector employers. The effective date (paragraph (i)(1) of the adopted standard) for the Illinois public sector shall be the effective date of this amendment, as published in the Illinois Register. The compliance date for paragraph (i)(2) of the adopted standard shall be 30 days after the effective date, the date for paragraph (i)(3) shall be 60 days after the effective date, and the date for paragraph (i)(4) shall be 90 days after the effective date.

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- d) The effective dates for 29 CFR 1910.119(e)(1)(i), (ii), (iii), and (iv), which establish timelines for hazard analyses for hazardous materials, are one, two, three, and four years, respectively, after August 1, 1994.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Crow, Woodcock, Snipe, Rail and Teal Hunting
- 2) Code Citation: 17 Ill. Adm. Code 740
- 3) Section Numbers: Proposed Action:  
740.20 Amendments
- 4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5] and Migratory Bird Hunting (50 CFR 20, August 25, 1987).
- 5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part open and close State-owned or - managed sites and change regulations and application procedures on the sites.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:
- Jack Price  
Department of Natural Resources  
524 S. Second Street  
Springfield IL 62701-1787  
217/782-1809
- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance:  
None

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 1998
- The full text of the Proposed Amendments begins on the next page:



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION  
 CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
 SUBCHAPTER b: FISH AND WILDLIFE

## PART 740

## CROW, WOODCOCK, SNIPES, RAIL AND TEAL HUNTING

## Section

## 740.10 Statewide Regulations

## 740.20 Regulations at Various Department-Owned or -Managed Sites

**AUTHORITY:** Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5] and Migratory Bird Hunting (50 CFR 20, August 25, 1987).

**SOURCE:** Adopted at 5 Ill. Reg. 8896, effective August 25, 1981; codified at 5 Ill. Reg. 10845; amended at 6 Ill. Reg. 357, effective December 23, 1981; amended at 6 Ill. Reg. 9648, effective July 21, 1982; amended at 7 Ill. Reg. 8815, effective July 15, 1983; amended at 8 Ill. Reg. 16796, effective August 30, 1984; amended at 9 Ill. Reg. 11620, effective July 16, 1985; peremptory amendments at 9 Ill. Reg. 14383, effective September 5, 1985; amended at 10 Ill. Reg. 15607, effective September 16, 1986; amended at 11 Ill. Reg. 9575, effective May 5, 1987; emergency amendments at 11 Ill. Reg. 15253, effective August 28, 1987, for a maximum of 150 days; emergency expired on January 25, 1988; amended at 12 Ill. Reg. 12261, effective July 15, 1988; amended at 13 Ill. Reg. 12869, effective July 21, 1989; amended at 14 Ill. Reg. 11207, effective June 29, 1990; amended at 15 Ill. Reg. 10057, effective June 24, 1991; amended at 16 Ill. Reg. 11162, effective June 30, 1992; amended at 17 Ill. Reg. 10877, effective July 1, 1993; amended at 18 Ill. Reg. 9998, effective June 21, 1994; amended at 19 Ill. Reg. 10577, effective July 1, 1995; amended at 20 Ill. Reg. 10851, effective August 5, 1996; amended at 21 Ill. Reg. 9061, effective June 26, 1997; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 740.20 Regulations at Various Department-Owned or -Managed Sites

- a) All the rules in 17 Ill. Adm. Code 510 apply in this Section, unless this Section is more restrictive.
- b) Woodcock, snipe and rail hunting; statewide regulations as provided for in this Part shall apply at the following areas (exceptions are in parentheses):

Anderson Lake Conservation Area (closed 7 days before duck season)

Big Bend State Fish and Wildlife Area

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## Big River State Forest

## Cache River State Natural Area

## Campbell Pond Wildlife Management Area

## Carlyle Lake Lands and Waters - Corps of Engineers managed lands

## Carlyle Lake Wildlife Management Area (sub-impoundment area closes 7 days prior to the southern zone waterfowl season)

## Crawford County Conservation Area

## Cypress Pond State Natural Area

## Dog Island Wildlife Management Area

## Eldon Hazlet State Park (North of Allen Branch and west of Peppenhorst Branch only)

## Ferrie Clyffe State Park

## Ft. de Chartres Historic Site (hunting with muzzle loading shotgun only)

## Ft. Massac State Park

## Giant City State Park

## Hamilton County Conservation Area (statewide hours until rabbit season, then 8:00 a.m. to 4:00 p.m.)

## Horseshoe Lake Conservation Area (public hunting area except controlled goose hunting area)

## I-24 Wildlife Management Area

## Iroquois County Wildlife Management Area (season closes the day before permit pheasant season; 4:00 p.m. daily closing; sign in/out required)

## Jubilee College State Park (season coincides with Jubilee Upland season, 17 Ill. Adm. Code 530.110)

## Kankakee River State Park (woodcock only; during the controlled pheasant hunting season, hunters must abide by those portions of 17 Ill. Adm. Code 530.105 and 530.110 which pertain to Kankakee River State Park)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to waterfowl season)

Kidd-Lake-State-Natural-Area

Kinkaid Lake Fish and Wildlife Area

Marseilles Wildlife Area (woodcock only; Monday - Thursday only through October)

Mermet Lake Fish and Wildlife Area

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 16, 17, and 18

Mississippi River Pools 21, 22 and 24

Oakford Conservation Area

Panther Creek Conservation Area

Peabody River King State Fish and Wildlife Area (West subunit only; woodcock only)

Pyramid State Park

Ramsey Lake State Park (statewide hours until rabbit season begins; then 8:00 a.m. - 4:00 p.m.)

Randolph County Conservation Area (woodcock only)

Ray Norbut State Fish and Wildlife Area (~~all-hunting-closes November-30-in-Area-A~~ all hunting closes December 15 in Eagle Creek Roost Area Area-C)

Red Hills State Park (statewide hours until rabbit season, then 8:00 a.m. - 4:00 p.m.)

Rend Lake Project Lands and Waters

Rice Lake Wildlife Area (season open during teal season only; sunrise until 1:00 p.m.)

Saline County Fish and Wildlife Area

## DEPARTMENT OF NATURAL RESOURCES

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Sam Dale Lake Conservation Area (statewide hours until rabbit season, then 8:00 a.m. to 4:00 p.m.)

Sam Parr State Park (statewide hours until rabbit season, then 8:00 a.m. to 4:00 p.m.)

Sand Ridge State Forest (During the controlled pheasant hunting season, hunters must abide by those portions of 17 Ill. Adm. Code 530.105 and 530.110 which pertain to Sand Ridge State Forest)

Sanganois State Fish and Wildlife Area

Snake Den Hollow Fish and Wildlife Area/Victoria Pheasant Habitat Area (closes September 30)

Stephen A. Forbes State Park (statewide hours until rabbit season, then 8:00 a.m. to 4:00 p.m.)

Tapley Woods State Natural Area (closed during firearm deer season)

Trail of Tears State Forest

Turkey Bluffs Fish and Wildlife Area

Union County Conservation Area (Firing Line Management Area only)

Washington County Conservation Area (woodcock only)

Weinberg-King State Park

Wildcat Hollow State Forest

c) Woodcock, snipe and rail hunting permitted, exceptions as noted in parentheses. Hunters must obtain a permit from site office and permit must be in possession while hunting. Failure to report harvest by February 15 will result in loss of hunting privileges at that site for the following year.

Chauncey Marsh

Clinton Lake State Recreation Area (4:00 p.m. daily closing)

East Conant Field (open only to hunters possessing a valid quality upland permit for the area)

Fox Ridge State Park (woodcock only; 4:00 p.m. daily closing)

## DEPARTMENT OF NATURAL RESOURCES

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Hidden Springs State Forest (4:00 p.m. daily closing)

Kickapoo State Park (woodcock only; 4:00 p.m. daily closing; closed during firearm deer season)

Lake Shelbyville - Eagle Creek State Park (woodcock only; 4:00 p.m. daily closing; closes opening day of site's pheasant season)

Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Area (4:00 p.m. daily closing)

Little Vermilion River State Natural Area (woodcock only; closes October 31)

Middlefork Fish and Wildlife Area (woodcock only; 4:00 p.m. daily closing; closed during firearm deer season)

Moraine View State Park (woodcock only; 4:00 p.m. daily closing; season closes the day before site's controlled pheasant season)

Newton Lake Fish and Wildlife Area (woodcock only; closed during firearm deer season)

Sato Field (open only to hunters possessing a valid quality upland permit for the area)

Site M (hunters are restricted to the Open Unit portion of the site during the controlled pheasant season, except those hunters who possess a valid quality unit upland permit)

Ten Mile Creek Fish and Wildlife Area (non-toxic shot only for woodcock hunting in waterfowl rest areas)

- d) Teal hunting; statewide regulations as provided for in this Part shall apply on the following sites, except no permanent blinds allowed except as authorized in 17 Ill. Adm. Code 590.15, 590.20, 590.40 and 590.50 (exceptions are in parentheses):

Anderson Lake Conservation Area

Blanding Wildlife Area

Cache River State Natural Area

Campbell Pond Wildlife Management Area

Carlyle Lake Lands and Waters - Corps of Engineers managed lands (waters of Peppenhurst Branch and Allen Branch north of the buoys

## DEPARTMENT OF NATURAL RESOURCES

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only)

Chain O'Lakes State Park (hunting is allowed only from numbered blind sites; ~~the~~ blinds need not be completed)

Carlyle Lake Wildlife Management Area

Chauncey Marsh (permit required)

Des Plaines Conservation Area (hunting is allowed only from numbered blind sites; the blinds need not be completed)

Dog Island Wildlife Management Area

Ft. de Chartres Historic Site (hunting is allowed from anchored, portable boat blinds only)

Horseshoe Lake State Park (Madison County)

Horseshoe Lake Conservation Area - Public Hunting Area (Alexander County)

Kaskaskia River State Fish and Wildlife Area

Kidd Lake State Natural Area (hunters must check in and out and report harvest each day; hunting from stake locations only; on first come first served basis; cutting of vegetation is prohibited)

Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Areas (site permit described in subsection 740-20(c) applies)

Lake Shelbyville - Corps of Engineers Managed Lands and Waters

Lake Sinnissippi Conservation Area

Marshall State Fish and Wildlife Area (Spring Branch Unit & Sparland Unit)

Mississippi River Fish and Waterfowl Management Area (Mississippi River Pools 25 and 26) (blind builders must claim their blinds one-half hour before shooting time or the blind is open for that day's hunt)

Mississippi River Pools 16, 17 and 18

Mississippi River Pools 21, 22 and 24



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## Oakford Conservation Area

## Ray Norbut Fish and Wildlife Area

## Rend Lake Project Lands and Waters

Rice Lake Fish and Wildlife Area (check in and check out required; sunrise until 1:00 p.m.)

## Saline County Fish and Wildlife Area

## Sanganais State Fish and Wildlife Area

## Snake Den Hollow Fish and Wildlife Area/Victoria Pheasant Habitat Area

Stephen A. Forbes State Park (walk-in hunting in the subimpoundment only)

## Ten Mile Creek State Fish and Wildlife Area (permit required)

## Turkey Bluffs State Fish and Wildlife Area

## Union County Conservation Area

## Woodford Fish and Wildlife Area

## e) Crow Hunting

- 1) Statewide regulations as provided for in this Part shall apply at the following sites (season dates in parentheses):

Mississippi River Pools 16, 17, 18

## Panther Creek Conservation Area

## Ray Norbut Fish and Wildlife Area

Sanganais State Fish and Wildlife Area (July 1 through August 15; day after goose season closes through March 1; non-toxic shot only)

- 2) Statewide regulations as provided for in this Part shall apply except hunting is permitted only during the second portion of the season at the following sites (season dates in parentheses):

## Anderson Lake Conservation Area

## Big Bend State Fish and Wildlife Area

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## Big River State Forest

Green River State Wildlife Area (January 1 - statewide closing)

- 3) All hunters must make a reasonable effort to retrieve downed birds. All crows must be removed from the site by the hunter.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rule was summarized: January 1998
- The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Dove Hunting
- 2) Code Citation: 17 Ill. Adm. Code 730
- 3) Section Numbers: Proposed Action:  
730.20 Amendments
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].
- 5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part are needed to open and close State-owned or -managed sites to the dove season and to change regulations and application procedures on the sites.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:
- Jack Price  
Department of Natural Resources  
524 S. Second Street  
Springfield IL 62701-1787  
217/782-1809
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance:  
None

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION  
 CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES  
 SUBCHAPTER b: FISH AND WILDLIFE

PART 730  
 DOVE HUNTING

Section  
 730.10 Statewide Regulations  
 730.20 Regulations at Various Department-Owned or -Managed Sites  
 730.30 Youth and Youth/Adult Dove Hunts at Various Department-Owned or  
 -Managed Sites

**AUTHORITY:** Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].

**SOURCE:** Adopted at 5 Ill. Reg. 8792, effective August 25, 1981; codified at 5 Ill. Reg. 10644; amended at 6 Ill. Reg. 9631, effective July 21, 1982; emergency amendment at 6 Ill. Reg. 10040, effective August 2, 1982, for a maximum of 150 days; emergency expired December 30, 1982; amended at 7 Ill. Reg. 10767, effective August 24, 1983; emergency amendment at 7 Ill. Reg. 10999, effective August 24, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 13680, effective July 25, 1984; amended at 9 Ill. Reg. 11601, effective July 16, 1985; emergency amendment at 9 Ill. Reg. 14025, effective September 4, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 15590, effective September 16, 1986; amended at 11 Ill. Reg. 9526, effective May 5, 1987; amended at 11 Ill. Reg. 11346, effective June 10, 1987; amended at 12 Ill. Reg. 12186, effective July 15, 1988; amended at 13 Ill. Reg. 10513, effective June 15, 1989; amended at 14 Ill. Reg. 11193, effective June 29, 1990; amended at 15 Ill. Reg. 9951, effective June 24, 1991; amended at 16 Ill. Reg. 11041, effective June 30, 1992; amended at 17 Ill. Reg. 10761, effective July 1, 1993; amended at 18 Ill. Reg. 10009, effective June 21, 1994; amended at 19 Ill. Reg. 10588, effective July 1, 1995; amended at 20 Ill. Reg. 10861, effective August 5, 1996; amended at 21 Ill. Reg. 11700, effective August 12, 1997; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 730.20 Regulations at Various Department-Owned or -Managed Sites**

- a) All the regulations in 17 Ill. Adm. Code 510 - General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) General Regulations
  - 1) Hunters shall possess only bismuth or lead shot size #7 1/2, 8, 9 or size #6 steel or smaller for taking of doves, except as noted under subsection (b)(2), and except these restrictions do not apply during the November portion of dove season.
  - 2) Only non-toxic shot (as defined by the U.S. Fish and Wildlife Service in 50 CFR 20), #6 steel shot or #7 1/2 bismuth shot or

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

smaller may be possessed on the following areas:

Anderson Lake Conservation Area  
 Banner Marsh Fish and Wildlife Area  
 Cache River State Natural Area  
 Carlyle Lake Wildlife Management Area (subinboundments only)  
 Chain O'Lakes State Park  
 Eldon Hazlet State Park  
 Hennepin Canal Parkway State Park  
 Horseshoe Lake Conservation Area (Alexander County)  
 Horseshoe Lake State Park (Madison County)  
 Kaskaskia River State Fish & Wildlife Area (designated areas)  
 Lake Shelbyville - Kaskaskia West and Okaw Wildlife Management Areas (waterfowl management units and designated non-toxic shot units only) Wildlife---Management---Area (waterfowl-management-units-only)  
 Mississippi River State Fish and Wildlife Area (Pools 25 and 26)  
 Newton Lake Fish and Wildlife Area (dove management units only)  
 Peabody River King State Fish and Wildlife Area  
 Rend Lake Project Lands and Waters  
 Sanganois State Fish and Wildlife Area  
 Sandchris Lake State Park  
 Shabbona Lake State Park  
 Snake Den Hollow State Fish and Wildlife Area  
 Ten Mile Creek Fish & Wildlife Area (areas posted as rest area on the Eads Mine and Belle River Units)



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Kinkaid Lake Fish and Wildlife Area (#)  
Mazonia State Fish and Wildlife Area (season closes September 30) (#)  
Mississippi River Pools 16, 17 and 18  
Mississippi River Pools 21, 22, 24  
Oakford Conservation Area  
Panther Creek Conservation Area (#)  
Rend Lake Project Lands and Waters (#)  
Sand Ridge State Forest (#)  
Sangamon County Conservation Area  
Sato Field (permit required; must be returned by February 15)  
Tapley Woods State Natural Area (#)  
Ten Mile Creek State Fish and Wildlife Area (permit required; must be returned by February 15)  
Trail of Tears State Forest (#)  
Wildcat Hollow State Forest  
Banner Marsh Fish and Wildlife Area (#)  
Hennepin Canal State Park (#)  
Iroquois County Wildlife Management Area (#)  
Johnson Sauk Trail State Park (#)  
Matthiessen State Park (#)  
Mautino Fish and Wildlife Area (#)

d) Statewide regulations as provided in this Part shall apply at the following sites except that hunting hours are 12 noon to 5 p.m. daily September 1-5; season closes September 30. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

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Union County Conservation Area  
Wayne Fitzgerald State Recreation Area  
3) On areas where hunters are required to hunt from marked or staked sites, hunters must hunt within 10 feet of the marked site.  
4) No hunting is allowed within 100 yards of a designated dove management field except for hunters who are part of the hunter quota for that field.  
5) At sites indicated by (#), hunters are required to check in and/or sign out as provided for in 17 Ill. Adm. Code 510.  
6) At sites where additional regulations apply, they are noted in parentheses after the site name.  
7) Hunting hours at all sites that are open during the upland game season shall coincide with hunting hours listed for the respective sites listed in 17 Ill. Adm. Code 530.  
c) Statewide season regulations as provided for in this rule shall apply at the following sites:  
Argyle Lake State Park (season opens day after Labor Day)(#)  
Cache River State Natural Area (#)  
Campbell Pond Wildlife Management Area (#)  
Carlyle Lake Lands and Waters - Corps of Engineers managed lands (#)  
Chauncey Marsh (permit required; may be obtained at Red Hills State Park headquarters; permits must be returned by 15 February)  
Cypress Pond State Natural Area (#)  
Dog Island Wildlife Management Area (#)  
East Conant Field (permit required; must be returned by February 15)  
Ferne Clyffe State Park (#)  
Ft. de Chartres State Historic Site (muzzleloading shotgun only) (#)  
Ft. Massac State Park (#)  
Kidd-Bake-State-Natural-Area-(closes-October-14)

CHICAGO KENT

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

Morrison Rockwood State Park (#)

Pyramid State Park (#)

Sanganois State Fish and Wildlife Area

Snake Den Hollow Fish and Wildlife Area (#)

Victoria Pheasant Habitat Area (#)

e) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are 12 noon to 5 p.m. daily September 1-5. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Anderson Lake Conservation Area (#)

Big Bend State Fish and Wildlife Area (#)

Big River State Forest (#)

Carlyle Lake Wildlife Management Area (#)

Chain O'Lakes State Park (closes September 5) (#)

Clinton Lake State Recreation Area (dove management fields only) (#)

Eldon Hazlet State Park (closes October 14) (#)

Fox Ridge State Park (dove management fields only)

Giant City State Park (#)

Hidden Springs State Forest (dove management fields only)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closes October 14) (#)

Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Areas Area (dove management fields only Dove-Management-Fields Only)

Marseilles Wildlife Area (After Labor Day, site is closed on Fridays, Saturdays, and Sundays through October) (#)

Middlefork Fish and Wildlife Management Area (dove management fields only Dove-Management-Fields-Only) (#)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Moraine View State Park (dove management fields only; season closes October 14) (#)

Peabody River King State Fish and Wildlife Area (east subunit closes October 14) (#)

Randolph County State Conservation Area (#)

Ray Norbut State Fish and Wildlife Area (#)

Turkey Bluffs State Fish and Wildlife Area (#)

Union County State Fish and Wildlife Area (season closes October 14) (#)

Washington County Conservation Area (closes October 14) (#)

Weinberg-King State Park (#)

f) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are 12 noon to 5 p.m. daily September 1-30. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Crawford County State Fish and Wildlife Area (#)

Hamilton County State Fish and Wildlife Area (#)

Horseshoe Lake State Conservation Area (#)

I-24 Wildlife Management Area (#)

Lake Le Aqua Na State Park (#)

Mermet Lake State Fish and Wildlife Area (#)

Mt. Vernon Game Propagation Center (#)

Newton Lake Fish and Wildlife Area (dove management units) (#)

Ramsey Lake State Park (#)

Red Hills State Park (#)

Saline County State Fish and Wildlife Area (#)

DEPARTMENT OF NATURAL RESOURCES  
NOTICE OF PROPOSED AMENDMENTS

Newton Lake Fish and Wildlife Area (except dove management units)

- h) Sites-participating-in-approved-research-project-to-study-effects-of hunting-hours-on-dove-harvest---Check-in-and-check-out-to-report harvest-is-required--A-drawing-will-be-held-at-11:00-a.m.--at-sites that-begin-hunting-at-12-noon-and-1/2-hour-before-sunrise-at-sites that-begin-hunting-at-sunrise-if-more-hunters-show-up--than-can-be accommodated;--Sites-and-research-hunting-hours-are-listed-below:  
1) Hunting-hours-are-sunrise-to-12-noon

Clinton Lake State Recreation Area

Crawford County Conservation Area

Giant City State Park

Horseshoe Lake Conservation Area (season closes October 14)

Mt. Vernon Game Propagation Center

Randolph County State Conservation Area

Sam Parr State Fish and Wildlife Area

- 2) Hunting hours are 12 noon to 5:00 p.m.

Fox Ridge State Park

Moraine View State Park (closes October 14)

Saline County Fish and Wildlife Area

Sam Dale Fish and Wildlife Area

Stephen A. Forbes State Park

Union County Conservation Area (closes October 14)

Washington County Conservation Area (closes October 14)

- 3) Hunting hours are sunrise to 5:00 p.m.

Hamilton County State Conservation Area

Hidden Springs State Forest

I-24 Wildlife Management Area

DEPARTMENT OF NATURAL RESOURCES  
NOTICE OF PROPOSED AMENDMENTS

Sam Dale Lake Conservation Area (#)

Sam Parr State Park (#)

Stephen A. Forbes State Park (#)

Jubilee College State Park (#)

Shabbona Lake State Park (#)

Siloam Springs State Park (#)

Wayne Fitzgerald State Recreation Area (season opens day after Labor Day) (closes September 30 October 14)

- g) Statewide regulations apply except that hunting hours are 12 noon to 5 p.m. from September 1-5; hunters must obtain a free permit from the Department; permits must be in possession while hunting on the site. Permit must be returned and harvest reported by February 15 or hunter will forfeit hunting privileges for that site for the following season.

Clinton Lake State Recreation Area (except dove management fields)

Hidden Springs State Forest (except dove management fields; shooting hours after September 5 are 12 noon to sunset)

Kickapoo State Park

Lake Shelbyville - Eagle Creek State Park (season opens day after Labor Day; closes October 14; shooting hours are 12 noon to sunset)

Lake Shelbyville - Eagle Creek Wildlife Management Area

Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Areas (except dove management dove management fields; shooting hours after September 5 are 12 noon to sunset Units)

Little Vermilion River State Natural Area

Middlefork Fish and Wildlife Area (except dove management units dove management units)

Moraine View State Park (except dove management fields; season closes October 14)



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

Kaskaskia--River--State--Fish--and-Wildlife-Area--Boza-Greek-Waterfowl-Management-Area--closes-October-14

Hermes-Bake-State-Fish-and-Wildlife-Area

Ramsey-Bake-State-Park

Shelbyville-West-Okaw-Wildlife-Management-Area

#### h\*) Permit Areas

##### 1) Permit Season Regulations

A) Permit season dates shall be September 1-5 and hunting hours are 12 noon to 5:00 p.m. at the sites listed at the end of this subsection.

##### B) Permit Applications

Applicants must contact the Department to obtain a permit reservation. Starting dates and methods for making reservation will be publicly announced. Applicants making reservations will be sent confirmation. Up to 6 reservations, but only one per applicant, may be made. Multiple reservations for the same person will not be accepted; further, persons attempting to make multiple reservations will forfeit the privilege to obtain a reservation for that season.

C) Each person may apply for only one area and receive one permit per season. An applicant may reapply only if his previous application was unsuccessful.

D) Hunting at these areas is by special permit only for the first five days of the season; thereafter, no permits are required for hunting these sites, except at Site M as indicated in subsection (h)(4)(3). All permits will be issued from Springfield and not from the site, except at Site M as indicated in subsection (h)(4)(3).

E) Check in time for registration shall be between 9 a.m. and 11 a.m. each day. Openings after 11 a.m. will be filled by drawing for standbys if more hunters register than there are vacancies.

F) All hunters must wear a DNR issued backpatch.

##### 2) Non-Permit Season Regulations

A) Non-permit season shall be September 6-30 except as indicated in parentheses.

B) Non-permit hunting hours shall be 12 noon - sunset except as indicated in parentheses.

C) No permits are required except as indicated in parentheses.

D) Check in and check out is required except as indicated in parentheses.

E) Hunter quotas will be filled on a first come-first served basis.

## DEPARTMENT OF NATURAL RESOURCES

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#### 3) Sites

Des Plaines Conservation Area (non-permit hunting hours are 12 noon - 5 p.m.)

Edward R. Madigan State Fish and Wildlife Area

Green River State Wildlife Area/Kaecker Sand Prairie Habitat Area (non-permit hunting hours are sunrise - sunset)

Horseshoe Lake State Park (Madison County) (non-permit hunting hours are 12 noon - 5 p.m.)

Kankakee River State Park

Mackinaw Fish and Wildlife Area (non-permit hunting hours 12 noon to 5 p.m.)

Sangchris Lake State Park (closed after Sunday of the third weekend in September)

Silver Springs State Park (closed during National Hunting and Fishing Day Weekend)

Site M (non-permit season closes with statewide dove season closing; non-permit season is governed by statewide regulations, permit required as indicated in subsection (g) above; on the Controlled Unit only those hunters engaged in the controlled pheasant hunting program may take doves during the November portion of the dove season; on the Quail Management Unit only those hunters with Quail Management Unit Permits may take doves during the November portion of the dove season)

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, Beaver and Woodchuck (Groundhog) Trapping

2) Code Citation: 17 Ill. Adm. Code 570

3) Section Numbers: Proposed Action:  
570.35 New Section  
570.40 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 2.30, 2.33 and 3.5].

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to open and close State-owned or -managed sites to the furbearer and woodchuck trapping seasons; change regulations and application procedures on the sites; and add language regarding use of .22 rimfire rifles by trappers during deer gun season.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
Department of Natural Resources  
524 S. Second Street  
Springfield IL 62701-1787  
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

B) Reporting, bookkeeping or other procedures required for compliance:  
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 17: CONSERVATION

## CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES

## SUBCHAPTER b: FISH AND WILDLIFE

## PART 570

MUSKRAT, MINK, RACCOON, OPOSSUM, STRIPED SKUNK, WEASEL,  
RED FOX, GRAY FOX, COYOTE, BADGER, BEAVER AND WOODCHUCK (GROUNDHOG)  
TRAPPING

- Section  
570.10 Statewide Zones  
570.20 Statewide Season Dates  
570.30 Statewide Hours, Daily Limit and Possession Limit  
570.35 Use of .22 Rimfire Rifles by Trappers During Deer Gun Season  
570.40 Trapping Regulations on Department-Owned, -Leased or -Managed Sites

**AUTHORITY:** Implementing and authorized by Sections 1.2, 1.3, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 2.30, 2.33 and 3.5].

**SOURCE:** Adopted at 5 Ill. Reg. 9767, effective September 17, 1981; codified at 5 Ill. Reg. 10637; amended at 6 Ill. Reg. 10709, effective August 20, 1982; amended at 7 Ill. Reg. 10778, effective August 24, 1983; amended at 8 Ill. Reg. 21589, effective October 23, 1984; amended at 9 Ill. Reg. 15864, effective October 7, 1985; amended at 10 Ill. Reg. 16644, effective September 24, 1986; amended at 12 Ill. Reg. 12034, effective July 7, 1988; emergency amendments at 12 Ill. Reg. 16261, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; amended at 13 Ill. Reg. 10589, effective June 15, 1989; amended at 14 Ill. Reg. 14775, effective September 4, 1990; amended at 14 Ill. Reg. 19854, effective December 3, 1990; amended at 15 Ill. Reg. 11586, effective August 2, 1991; amended at 16 Ill. Reg. 11069, effective June 30, 1992; amended at 17 Ill. Reg. 10785, effective July 1, 1993; amended at 17 Ill. Reg. 18796, effective October 19, 1993; amended at 18 Ill. Reg. 10077, effective June 21, 1994; amended at 19 Ill. Reg. 12640, effective August 29, 1995; amended at 20 Ill. Reg. 12351, effective August 30, 1996; amended at 21 Ill. Reg. 9070, effective June 26, 1997; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 570.35 Use of .22 Rimfire Rifles by Trappers During Deer Gun Season**

Licensed trappers in possession of valid Firearm Owners Identification may use .22 rimfire rifles to kill trapped raccoon, opossum, striped skunk, red fox, gray fox, coyote and woodchuck (groundhog) during seasons established by Section 570.20, including portions of such open seasons that coincide with hunting seasons for taking white-tailed deer by use of firearms (17 Ill. Adm. Code 650.10), muzzleloading rifles (17 Ill. Adm. Code 660.10) and handguns (17 Ill. Adm. Code 680.10).

(Source: Added at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENTS

Section 570.40 Trapping Regulations on Department-Owned, -Leased or -Managed Sites

## a) General Regulations

- 1) All the regulations in 17 Ill. Adm. Code 510--General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- 2) On areas where special Department tags are required for trappers, traps without tags attached will be subject to confiscation.
- 3) Trappers must stay within assigned areas.
- 4) For sites where permits are required a drawing shall be held prior to the opening of the season. The date of the drawing shall be announced by the Department by public announcement and the drawing shall be held at the site. Persons participating in the drawing must have either a current or previous year trapping license. The number of permits per site shall be determined pursuant to 17 Ill. Adm. Code 510.20. Permit applicants must submit name and address to the site prior to drawing. Permits must be in possession while trapping on the area.
- 5) All sites except Blanding Wildlife Area, Kinkaid Lake Fish and Wildlife Area, Mississippi River Pools 16, 17, 18, 21, 22, 24, and Rend Lake Wildlife Management Area require trappers to submit a harvest report to the site superintendent within 20 days following the close of the trapping season. Failure to report shall result in the trapper being ineligible to trap at that site for the following year.
- 6) Body-gripping traps with a 10-inch jaw spread or larger must be totally submerged in water when set.
- 7) Any person who violates the site specific regulations shall be guilty of a Class B Misdemeanor.
- 8) No trapping is permitted in subinboundments or designated waterfowl management units during duck season.
- b) Statewide regulations as provided for in this Part apply at the following sites (exceptions in parentheses):

Blanding Wildlife Area (trapping area includes the islands and associated backwater sloughs immediately upstream from Lock and Dam 12; no trapping on mainland)

Kinkaid Lake Fish and Wildlife Area

Mississippi River Pools 16, 17, 18, 21, 22, 24

Pyramid State Park (water sets only)

Ray Norbut State Fish and Wildlife Area (all trapping closes



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Mermet Lake Fish and Wildlife Area

Mississippi River Fish and Waterfowl Area (Pools 25, 26)

Moraine Hills State Park (water sets only; only body-gripping traps with a jaw spread of 5 inches or less may be used; no more than two persons may enter drawing on a single card)

Panther Creek Conservation Area

Peabody River King Fish and Wildlife Area (east, west, and south subunits only)

Randolph County Conservation Area

Redwing Slough/Deer Lake State Natural Area (water sets only; only body gripping traps with a jaw spread of 5-6 inches or less may be used)

Sanganois Fish and Wildlife Area

Sato Field

Site M (only Egg Traps (Registered Trademark), D-P (Dog Proof) Traps (Registered Trademark), box traps, cage traps, and traps of similar design may be used)

Ten Mile Creek State Fish and Wildlife Area

Turkey Bluffs Fish and Wildlife Area

Washington County Conservation Area

d) Statewide regulations as provided for in this Part apply at the following sites; in addition, a permit is required; only Egg Traps, D-P (Dog-Proof) Traps, box traps, cage traps, and traps of similar design may be used for land sets; only body-gripping traps with a jaw spread of 5 inches or less, foothold traps with a jaw spread of 4 1/2 inches or less and square body-gripping traps with a 10 inch jaw spread may be used for water sets (exceptions in parentheses):

Anderson Lake Conservation Area

Argyle Lake State Park

Banner Marsh State Fish and Wildlife Area

Big Bend Fish and Wildlife Area (after the close of rabbit season

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

December 15 in Eagle Roost Area

Rend Lake Project Lands and Waters (water sets only)

Siloam Springs State Park

c) Statewide regulations as provided for in this Part apply at the following sites; in addition, a permit is required; only Egg Traps, D-P (Dog-Proof) Traps, box traps, cage traps, and traps of similar design may be used for land sets (exceptions in parentheses):

Cache River State Natural Area

Carlyle Lake Lands and Waters - Corps of Engineers Managed Lands

Carlyle Lake Wildlife Management Area

Clinton Lake Recreation Area

Coffeen Lake State Park

Cypress Pond State Natural Area

Dog Island Wildlife Management Area

East Conant Field

Eldon Hazlet State Park - north of Allen Branch and west of Peppenhorst Branch only

Ferne Clyffe State Park - Cedar Draper Bluffs Hunting Area

Fort de Chartres Historic Site

Horseshoe Lake Conservation Area

I & M Canal State Park

Kaskaskia River Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to duck season)

Kidd Lake State Natural Area

Lake Murphysboro State Park

Lake Shelbyville West Okaw and Kaskaskia Fish and Wildlife Area

Little Vermillion River State Natural Area

Chicago Kent

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foothold traps with a jaw spread of 7 1/2 inches or less may be used for water sets)

## Coleta Ponds

## Giant City State Park

Hennepin Canal Parkway including Mississippi Lake (trappers must register at park office; no floats may be set more than 14 days prior to the season and must be removed at the conclusion of the season; no land sets)

## Horseshoe Lake State Park-Madison County

## Johnson-Sauk Trail State Park

## Lake Le-Aqua-Na State Park

## Mackinaw River State Fish and Wildlife Area

## Marshall County Fish and Wildlife Area

## Morrison Rockwood State Park

## Rice Lake Fish and Wildlife Area

## Rock Cut State Park

## Sangchris Lake State Park

## Shabbona Lake State Park

## Sparland Fish and Wildlife area

## Spring Lake Conservation Area (water sets only)

## Starved Rock/Matthiessen State Park

## Trail of Tears State Forest

## Union County Conservation Area

e) Trapping is prohibited on all other Department-Owned, -leased or -managed sites except by special permit which shall be issued by the Department when it is determined that the harvest of a species would enhance the biological balance of the resource.

- 1) All regulations shall be according to species regulations as provided for in this Part.

## DEPARTMENT OF NATURAL RESOURCES

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- 2) Permit application information and site specific regulations shall be announced publicly by the Department through the news media by September 1 of each year.

- 3) Site specific regulations shall be listed on the application and permit and posted at the site.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Raccoon, Opossum, Striped Skunk, Red Fox, Coyote and Woodchuck (Groundhog) Hunting on Department-Owned, -Leased or -Managed Sites

2) Code Citation: 17 Ill. Adm. Code 550

3) Section Numbers:  
550.10 Proposed Action:  
550.30 Amendments  
Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].

5) A Complete Description of the Subjects and Issues Involved: Amendments are being made to open and close State-owned or -managed sites and to change regulations and application procedures.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
Department of Natural Resources  
524 S. Second Street  
Springfield IL 62701-1787  
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.

## DEPARTMENT OF NATURAL RESOURCES

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B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT(S)

## TITLE 17: CONSERVATION

## CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

## SUBCHAPTER b: FISH AND WILDLIFE

## PART 550

## RACCOON, OPOSSUM, STRIPED SKUNK, RED FOX, GRAY FOX, COYOTE

## AND WOODCHUCK (GROUNDHOG) HUNTING

## Section

550.10 General Regulations

550.20 Statewide Regulations

550.30 Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and

Woodchuck (Groundhog) Hunting on Department-Owned, -Leased or -Managed Sites

**AUTHORITY:** Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].

**SOURCE:** 5 Ill. Reg. 8833, effective August 25, 1981; codified at 5 Ill. Reg. 10636; emergency amendment at 5 Ill. Reg. 11593, effective October 20, 1981, for a maximum of 150 days; emergency expired March 17, 1982; amended at 6 Ill. Reg. 10714, effective August 20, 1982; amended at 7 Ill. Reg. 10782, effective August 24, 1983; amended at 7 Ill. Reg. 16098, effective November 22, 1983; amended at 8 Ill. Reg. 21593, effective October 23, 1984; amended at 9 Ill. Reg. 16204, effective October 9, 1985; emergency amendment at 9 Ill. Reg. 18151, effective November 12, 1985, for a maximum of 150 days; emergency expired April 11, 1986; amended at 10 Ill. Reg. 16649, effective September 22, 1986; amended at 11 Ill. Reg. 9540, effective May 5, 1987; amended at 12 Ill. Reg. 11730, effective June 30, 1988; amended at 13 Ill. Reg. 10598, effective June 19, 1989; amended at 14 Ill. Reg. 10798, effective June 20, 1990; amended at 15 Ill. Reg. 11598, effective August 2, 1991; amended at 16 Ill. Reg. 11078, effective June 30, 1992; amended at 17 Ill. Reg. 10795, effective July 1, 1993; amended at 18 Ill. Reg. 10090, effective June 21, 1994; amended at 19 Ill. Reg. 11787, effective August 3, 1995; amended at 20 Ill. Reg. 10874, effective August 5, 1996; amended at 21 Ill. Reg. 9077, effective June 26, 1997; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 550.10 General Regulations

- a) It is unlawful to hunt raccoon, opossum, striped skunk, red fox, gray fox, coyote and woodchuck (groundhog) in counties open for deer hunting during the firearm deer hunting season as specified in 17 Ill. Adm. Code 650.10, except coyotes may be taken during legal deer hunting hours, only with a shotgun loaded with slugs or a muzzle-loading firearm, and only by persons in possession of a valid unfilled firearms deer permit, during the firearm deer season as specified in 17 Ill. Adm. Code 650.10. .22 rimfire rifles may be used

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to hunt raccoon, opossum, striped skunk, red fox, gray fox, coyote and woodchuck (groundhog) during the hunting seasons for taking white-tailed deer by use of muzzleloading rifles (17 Ill. Adm. Code 660.10) and handguns (17 Ill. Adm. Code 680.10) provided the hunting season for raccoon, opossum, striped skunk, red fox, gray fox, coyote and woodchuck (groundhog) is also open as specified in 17 Ill. Adm. Code 550.20.

- b) Game breeding and licensed hunting preserve areas licensed pursuant to Section 3.27 of the Wildlife Code [520 ILCS 5/3.27] and managed pursuant to Sections 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/3.28 and 3.29] are exempt from the provisions of this Part.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 550.30 Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting on Department-Owned, -Leased or -Managed Sites

- a) All the regulations in 17 Ill. Adm. Code 510-General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) For sites where hunter quotas exist and permits are required a drawing shall be held prior to the opening of the season. The date of the drawing shall be announced by the Department by public announcement and the drawing shall be held at the site. The number of permits per site shall be determined pursuant to 17 Ill. Adm. Code 510.20.
- c) .22 rimfire firearms permitted from sunset to sunrise unless otherwise specified.
- d) Coyote and striped skunk season shall coincide with the statewide fox season unless otherwise specified.
- e) No woodchuck (groundhog) hunting allowed unless otherwise specified.
- f) Statewide regulations as provided for in this rule apply at the following sites (exceptions are in parentheses):

Anderson Lake Conservation Area (all hunting to begin after the close of duck season)

Apple River Canyon State Park

Argyle Lake State Park

Banner Marsh State Fish and Wildlife Area

Big Bend State Fish and Wildlife Area

Big River State Forest

Cache River State Natural Area

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Campbell Pond Wildlife Management Area

Carlyle Lake Lands and Waters - Corps of Engineers Management Lands

Carlyle Lake Wildlife Management Area (subimpoundment area closed 7 days prior to and during the southern zone waterfowl season)

Cypress Pond State Natural Area

Dog Island Wildlife Management Area

Eldon Hazlet State Park (north of Allen Branch and west of Peppenhorst Branch)

Ferne Clyffe State Park - Cedar Draper Bluffs Hunting Area

Fort de Chartres Historic Site (muzzleloading firearms or bow and arrow only)

Horseshoe Lake Conservation Area - Alexander County (Public Hunting Area except Controlled Hunting Area)

I-24 Wildlife Management Area

Johnson Sauk Trail State Park (archery only; coyote and fox only; season shall coincide with archery deer season on this site)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to and during duck season)

Kidd Lake State Natural Area

Kinkaid Lake Fish and Wildlife Area

Marseilles Wildlife Area (coyote and fox only; fox statewide season; coyote opens with fox season - February 28; hunting hours 1/2 hour before sunrise - sunset)

Marshall County Fish and Wildlife Area (raccoon, opossum only; season opens day after duck season)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18, 21, 22 and 24 (groundhog hunting allowed) (c)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT(S)

Oakford Conservation Area

Panther Creek Conservation Area (statewide seasons for coyote and striped skunk)

Peabody River King State Fish and Wildlife Area (West subunit only)

Randolph County Conservation Area

Ray Norbut State Fish and Wildlife Area (all-hunting-closes November--30--in-area--at all hunting closes December 15 in area--Eagle Roost Area)

Rend Lake Project Lands and Waters

Sangamon County Conservation Area

Sangamon State Fish and Wildlife Area (statewide seasons for coyote and striped skunk)

Shawnee National Forest, Oakwood Bottoms and LaRue Scatters (season closes 7 days before opening of duck season and remains closed through the duck season; at Oakwood Bottoms non-toxic shot only)

Siloam Springs State Park

Tapley Woods State Natural Area (shotguns or muzzleloading rifles only may be used from sunset - sunrise)

Trail of Tears State Forest

Turkey Bluffs State Fish and Wildlife Area

Washington County Conservation Area

Weinburg-King State Park (c)(d)

Wildcat Hollow State Forest

Witkowsky State Wildlife Area (coyote only; season shall coincide with archery and firearm deer season at this site; archery only during the archery season at this site)

Woodford County Fish and Wildlife Area (raccoon, opossum only; season opens after duck season)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT(S)

- g) Statewide regulations apply except that hunters must obtain a permit from the Department; where hunter quotas exist, permits are allocated as described in subsection 550-30(b); permits must be in possession while hunting; the permit must be returned by February 15 or hunter will forfeit hunting privileges at that site the following year (exceptions are in parentheses):

Chauncey Marsh (obtain permit at Red Hills State Park Headquarters)

Clinton Lake State Recreation Area

Crawford County Conservation Area

East Conant Field

Fox Ridge State Park

Green River State Wildlife Area (all hunting begins on the day after upland game season; raccoons, opossum and fox close with statewide season; skunk and coyote close the last day of February)

Hamilton County Conservation Area

Hidden Springs State Forest

Iroquois County Wildlife Management Area (season opens the day after Permit Pheasant Season)

Kankakee River State Park (no rifle or handgun hunting allowed; the furbearer hunting season opens the day after the last day of the site's upland hunting seasons through statewide close of respective seasons for furbearers except skunk and coyote close with fox season)

Kickapoo State Park

Lake Shelbyville --- Eagle-Creek --- State --- Park --- (sunrise --- to --- sunset only --- shotgun only)

Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Areas Area

Lincoln Trail State Park (season opens day after second firearm deer season; closes December 20; hunting hours sunset to sunrise only; raccoon only)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT(S)

Little Vermilion River State Natural Area

Middlefork Fish and Wildlife Management Area

Moraine View State Park (season opens after site's controlled pheasant season; night hunting only)

Ramsey Lake State Park

Saline County Fish and Wildlife Area

Sam Parr State Park

Sand Ridge State Forest

Sangchris Lake State Park (fox, coyote and skunk hunting only; statewide seasons for fox, coyote and striped skunk except during waterfowl season only hunters pursuing waterfowl or upland game in accordance with site-specific regulations set forth in 17 Ill. Adm. Code 530 and 590 may take fox, coyote and skunk; shotgun only)

Sato Field

Site M (statewide seasons for coyote and striped skunk)

Stephen A. Forbes State Park

Ten Mile Creek State Fish and Wildlife Area (statewide coyote, striped skunk, and groundhog hunting allowed)

Walnut Point Fish and Wildlife Management Area (season opens day after second firearm deer season; closes December 20; hunting sunset to sunrise only; raccoon only)

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Squirrel Hunting

2) Code Citation: 17 Ill. Adm. Code 690

3) Section Numbers: Proposed Action:  
690.30 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5].

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to open and close State-owned or -managed sites to the squirrel season and to change regulations and application procedures on the sites.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
Department of Natural Resources  
524 S. Second Street  
Springfield IL 62701-1787  
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance:  
None

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT(S)

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT(S)

## TITLE 17: CONSERVATION

## CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

## SUBCHAPTER b: FISH AND WILDLIFE

## PART 690

## SQUIRREL HUNTING

## Section

690.10 Hunting Seasons

690.20 Statewide Regulations

690.30 Regulations at Various Department-Owned or -Managed Sites

**AUTHORITY:** Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5].

**SOURCE:** Adopted at 5 Ill. Reg. 8017, effective July 24, 1981; codified at 5 Ill. Reg. 10642; emergency amendment at 5 Ill. Reg. 11382, effective October 14, 1981, for a maximum of 150 days; emergency expired March 12, 1982; amended at 6 Ill. Reg. 9642, effective July 21, 1982; amended at 7 Ill. Reg. 8809, effective July 15, 1983; emergency amendment at 7 Ill. Reg. 9690, effective August 1, 1983, for a maximum of 150 days; emergency expired December 29, 1983; amended at 8 Ill. Reg. 16789, effective August 30, 1984; amended at 9 Ill. Reg. 11614, effective July 16, 1985; amended at 10 Ill. Reg. 15601, effective September 16, 1986; amended at 11 Ill. Reg. 9549, effective May 5, 1987; amended at 12 Ill. Reg. 12246, effective July 15, 1988; amended at 13 Ill. Reg. 10606, effective June 15, 1989; amended at 14 Ill. Reg. 10816, effective June 20, 1990; amended at 15 Ill. Reg. 10012, effective June 24, 1991; amended at 16 Ill. Reg. 11087, effective June 30, 1992; amended at 17 Ill. Reg. 10842, effective July 1, 1993; amended at 18 Ill. Reg. 8624, effective May 31, 1994; amended at 19 Ill. Reg. 10664, effective July 1, 1995; amended at 20 Ill. Reg. 10882, effective August 5, 1996; amended at 21 Ill. Reg. 9095, effective June 26, 1997; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 690.30 Regulations at Various Department-Owned or -Managed Sites

- a) All the regulations in 17 Ill. Adm. Code 510, General Hunting and Trapping on Department-Owned or Managed Sites, apply in this Part, unless this Part is more restrictive.
- b) Hunting with .22 caliber rimfire firearms or muzzleloading black powder rifles is allowed at those sites listed in the following subsections that are followed by a (1).
- c) Check-in, check-out and reporting of harvest is required at those sites listed in the following subsections that are followed by a (2).
- d) Statewide regulations apply at the following sites:

Anderson Lake Conservation Area (2)

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## Apple River Canyon State Park - Salem and Thompson Units (2)

Argyle Lake State Park (2)

Big Bend State Fish and Wildlife Area (2)

Big River State Forest (2)

Cache River State Natural Area (1) (2)

Campbell Pond Wildlife Management Area

Carlyle Lake Lands and Waters - Corps of Engineers managed lands (1)

Carlyle Lake Wildlife Management Area (subimpoundment area closed 7 days prior to and during the southern zone waterfowl season) (1)

Chain O'Lakes State Park (opens Wednesday after permit pheasant season for 5 consecutive days, except closed on Christmas Day; 8:00 a.m. to 4:00 p.m.; daily quota filled on first come-first served basis; DNR issued back patch must be worn while hunting; only shot size of No. 5 lead or No. 3 steel or smaller may be used) (2)

Crawford County Conservation Area (1) (2)

Cypress Pond State Natural Area (1) (2)

Dog Island Wildlife Management Area (1) (2)

Eldon Hazlet State Park (north of Allen Branch (2); and west of Peppenhorst Branch only)

Ferne Clyffe State Park - Cedar Draper Bluffs Hunting Area (1) (2)

Fort de Chartres Historic Site (muzzleloading firearms or bow and arrow only) (1) (2)

Fort Massac State Park (2)

I-24 Wildlife Management Area (2)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to and during duck season) (1) (2)

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Kidd Lake State-Natural-Area

Kinkaid Lake Fish and Wildlife Area (1)

Marseilles Fish and Wildlife Area (Monday through Thursday only through October 31; during August, hunting allowed west of E. 2450 Road only) (2)

Marshall State Fish and Wildlife Area (2)

Mermet Lake Conservation Area (non-toxic shot only in waterfowl areas) (1) (2)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26) (1)

Mississippi River Pools 16, 17, 18 (1)

Mississippi River Pools 21, 22, 24 (1)

Oakford Conservation Area (1)

Panther Creek Conservation Area (1) (2)

Peabody River King State Fish and Wildlife Area (east and north subunits close closed, November 1) (2)

Randolph County Conservation Area (2)

Ray Norbut State Fish and Wildlife Area (~~closes--November--30--in Area-A7~~ closes December 15 in Area-E Eagle Roost Area) (1) (2)

Red Hills State Park (2)

Rend Lake Project Lands and Waters (1)

Saline County Fish and Wildlife Area (1) (2)

Sam Dale Lake Conservation Area (2)

Sam Parr State Park (2)

Sangamon County Conservation Area (1)

Sanganois State Fish and Wildlife Area (1)

Shawnee National Forest, Oakwood Bottoms (non-toxic shot only) (1)

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Stephen A. Forbes State Park (2)

Tapley Woods State Natural Area (2)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1) (2)

Walnut Point Fish and Wildlife Area (2)

Washington County Conservation Area (2)

Weinberg-King State Park (1) (2)

Wildcat Hollow State Forest (1)

Witkowski State Wildlife Area (opens after second firearm deer season) (2)

e) Season dates shall be the day following Labor Day to the end of the statewide season at the following sites:

Ferne Clyffe State Park - Fern Clyffe Hunting Area (2)

Giant City State Park

Hamilton County Conservation Area (2)

Pere Marquette State Park (2)

Pyramid State Park (2)

Siloam Springs State Park (2)

f) Season dates shall be the day after Labor Day to September 30 at the following sites:

Johnson-Sauk Trail State Park (2)

Jubilee College State Park (2)

Kankakee River State Park (2)

Silver Springs State Park (2)

Spring Lake Fish and Wildlife Area (2)

g) Statewide regulations apply at the following sites, except that



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hunters must obtain a free permit from the Department and variations in season dates are in parentheses. Permits must be in possession while hunting. The permit must be returned and harvest reported by February 15 or the hunter will forfeit privileges at that site for the following year:

Chauncey Marsh (permit may be obtained at Red Hills State Park Headquarters) (1)

Clinton Lake State Recreation Area

East Conant Field (1)

Fox Ridge State Park (1)

Hidden Springs State Forest (.22 rimfire firearms and muzzleloading blackpowder rifles prohibited until October 1) (1)

Kickapoo State Park (season opens day after Labor Day)

Lake Shelbyville - Eagle Creek State Park (closes opening day of site's pheasant season)

Lake-Shelbyville---Eagle-Creek-Wildlife-Management-Area-(1)

Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Areas Area (1)

Little Vermilion River State Natural Area

Middlefork Fish and Wildlife Area (season opens day after Labor Day)

Moraine View State Park

~~Mt--Vernon-Game-Propagation-Center--(closes-September-30)~~

~~Newton Lake Fish and Wildlife Area (closes September 30)~~

Ramsey Lake State Park

Sato Field (1)

Site M (the Quality Unit and Controlled Unit close October 31) (1)

Ten Mile Creek Fish and Wildlife Area (1)

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h) Season dates shall be statewide opening through September 30 at the following sites:

Castle Rock State Park (2)

Iroquois County Wildlife Management Area (1) (2)

Mackinaw State Fish and Wildlife Area (2)

Mt. Vernon Game Propagation Center (2)

Woodford County Fish and Wildlife Area (2)

i) Season dates shall be statewide opening through October 31 at the following sites:

Green River State Wildlife Area (2)

Horseshoe Lake Conservation Area (season on the controlled goose hunting area shall close October 31, remainder of the public hunting area statewide season; non-toxic shot only) (1)

Sand Ridge State Forest (1) (2)

Union County Conservation Area (season on the controlled goose hunting area closes October 31; firing line unit - statewide closing; non-toxic shot only) (1)

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF NATURAL RESOURCES  
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Taking of Wild Turkeys - Fall Archery Season
- 2) Code Citation: 17 Ill. Adm. Code 720
- 3) Section Numbers: Proposed Action:  
720.10 Amendments  
720.25 Amendments  
720.30 Amendments  
720.40 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].

5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part are needed to open new counties; allow for the use of flint, chert or obsidian-napped broadheads; open and close State-owned or -managed sites to the archery turkey season; and to change regulations and application procedures on the sites.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
Department of Natural Resources  
524 S. Second Street  
Springfield IL 62701-1787  
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance:  
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

ATT Chicago Kelt Inc.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFE

PART 720  
THE TAKING OF WILD TURKEYS - FALL ARCHERY SEASON

- Section  
720.10 Hunting Seasons and Counties Open to Hunting  
720.20 Statewide Turkey Permit Requirements  
720.25 Turkey Permit Requirements - Landowner/Tenant Permits  
720.30 Turkey Hunting Regulations  
720.40 Regulations at Various Department-Owned or -Managed Sites  
720.50 Releasing or Stocking of Turkeys (Repealed)

**AUTHORITY:** Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10, and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].

**SOURCE:** Adopted and codified at 8 Ill. Reg. 7825, effective May 22, 1984; emergency amendments at 8 Ill. Reg. 20086, effective October 12, 1985, for a maximum of 150 days; emergency expired March 2, 1985; amended at 9 Ill. Reg. 14311, effective September 5, 1985; amended at 11 Ill. Reg. 9556, effective May 5, 1987; amended at 12 Ill. Reg. 12254, effective July 15, 1988; amended at 13 Ill. Reg. 12831, effective July 21, 1989; amended at 14 Ill. Reg. 12413, effective July 20, 1990; amended at 15 Ill. Reg. 11611, effective August 2, 1991; amended at 16 Ill. Reg. 11093, effective June 30, 1992; amended at 16 Ill. Reg. 15442, effective September 28, 1992; amended at 17 Ill. Reg. 281, effective December 28, 1992; amended at 17 Ill. Reg. 10850, effective July 1, 1993; amended at 18 Ill. Reg. 10104, effective June 21, 1994; amended at 19 Ill. Reg. 11799, effective August 3, 1995; amended at 20 Ill. Reg. 10890, effective August 5, 1996; amended at 21 Ill. Reg. 9102, effective June 26, 1997; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 720.10 Hunting Seasons and Counties Open to Hunting

- a) Season: Statewide season October 1 through the first Thursday after January 10, closed during firearm deer season, as set out in 17 Ill. Adm. Code 650.

## b) Open Counties:

Adams	Marion
Alexander	Marshall
Bond	Mason
Boone	Massac
Brown	McDonough
Bureau	Menard
Calhoun	Mercer
Carroll	Monroe
Cass	Montgomery

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Christian	Morgan
Clark	Ogle
Clay	Peoria
Clinton	Perry
Coles	Pike
Crawford	Pope
Cumberland	Pulaski
Edwards	Putnam
Effingham	Randolph
Fayette	Richland
Fulton	Rock Island
Gallatin	Saline
Greene	Schuyler
Grundy	Scott
Hamilton	Shelby
Hancock	St. Clair
Hardin	Stephenson
Henderson	Tazewell
Henry	Union
Jackson	Vermilion
Jasper	Wabash
Jefferson	Warren
Jersey	Washington
Jo Daviess	Wayne
Johnson	White
Kankakee	Whiteside
Knox	Williamson
LaSalle	Winnebago
Lawrence	Woodford
Lee	
Macoupin	
Madison	

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 720.25 Turkey Permit Requirements - Landowner/Tenant Permits

- a) The "immediate family" is defined as the spouse, children, and parents permanently residing on the same property as the landowner or tenant.
- b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit. A hunting rights lease, or other non-agricultural lease, is not valid for a landowner or tenant permit.
- c) Resident landowners who own 40 acres or more of land, and resident tenants renting or leasing 40 acres or more of commercial agricultural



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land, and members of their immediate family may apply for one free turkey permit for their property only in counties open for turkey hunting. All resident landowner/tenants that do not reside on the property must possess a valid hunting license. Non-resident Illinois landowners of 40 or more acres of land and members of their immediate family are eligible to receive a permit for their property only for a fee of \$25-00.

- d) Proof of ownership for all landowner or tenant applications must be provided by one of the following methods:
- 1) Submittal of a copy of property deed;
  - 2) Submittal of a copy of contract for deed;
  - 3) Submittal of a copy of most recent estate tax statement upon which landowner's name appears;
  - 4) Submittal of a copy of a Farm Service Agency 156EZ form either an Agricultural-Stabilization-and-Conservation-Service-Form--476--or Commodity-Credit-Corporation-Form-477; or
  - 5) Submittal of a copy of trust agreement which must indicate that the trust owns at least 40 acres and the applicant is a current income beneficiary of the trust.
- e) If applying for a tenant permit, applicants are required to submit, in addition to the landowner certification and proof of ownership, a copy of one of the following:
- 1) A lease (not a hunting rights lease) or rental agreement, file stamped as recorded by the county clerk, covering the current year; or
  - 2) The authorized form from the Farm Service Agency either an Agricultural-Stabilization-and-Conservation-Service-Form--476--or Commodity-Credit-Corporation-Form-477.
- f) If the property is owned or rented by more than one person: Only one landowner (and immediate family) or one tenant (and immediate family) will be issued a permit for every 40 acres of owned or rented land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate family receive turkey permits.
- g) Shareholders of corporations owning 40 or more acres of land in a county may apply for one permit to hunt the corporation lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county, shall be issued based on ownership of lands by corporations. Lands leased to corporations shall not be considered as a basis for a permit for the shareholders of the lessee. Lands held in trust by corporations shall not be considered as a basis for a permit by the shareholders of the trustee. If application is made for a permit based upon lands owned by the corporation, a duly authorized officer of the corporation must sign a notarized statement authorizing the applicant to hunt on the corporate lands for which a permit is being requested. This statement must identify the applicant is a shareholder, identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation lands. This document must be attached to the application

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upon submittal to the Permit Office. The shareholder turkey permit shall be free to resident shareholders and the cost to nonresident shareholders shall be \$25-00.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 720.30 Turkey Hunting Regulations

It is unlawful:

- a) to use live turkey decoys, recorded calls, dogs or bait. An area is considered as baited during the presence of and for 10 consecutive days following the removal of bait;
- b) to take, or attempt to take, more than 1 wild turkey during the fall archery season (either sex may be harvested);
- c) to use any weapon except a long, recurved or compound bow with a minimum pull of 40 pounds at some point within a 28 inch draw--a hunting--arrow--with--a--barbless--broadhead--is--the--only--legal--arrow. Minimum arrow length is 20 inches, and broadheads must be used. Broadheads may have fixed or expandable blades, but they must be barbless and have a minimum 7/8 inch diameter when fully opened. Broadheads with fixed blades must be metal or flint-, chert-, or obsidian-napped; broadheads with expandable blades must be metal. All other bows and arrows, including electronic arrow tracking systems, are illegal. Any mechanical device capable of maintaining a drawn or partially drawn position on a bow is illegal;
- d) for any person having taken a wild turkey to further participate with a weapon in any hunting party for the purpose of taking additional turkeys;
- e) for any person to hunt wild turkeys without having a signed Archery Wild Turkey Hunting Permit in possession;
- f) to transport or move a wild turkey without first affixing and properly sealing the adhesive-backed turkey permit securely around the leg. Leg tag must be affixed to the turkey immediately upon kill. No person shall leave any turkey that has been killed without properly attaching the turkey permit around the leg;
- g) to fail to send the mail-in portion of the turkey permit and feathers as indicated on the mail-in envelope to the Department in the envelope supplied within 48 hours of taking a turkey with bow and arrow. Failure to follow this rule constitutes illegal possession of a wild turkey and is punishable by a fine plus turkey hunting privileges being suspended for the following year; and
- h) to possess, while in the field during archery turkey season, any turkey permit issued to another person.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 720.40 Regulations at Various Department-Owned or -Managed Sites

Statewide regulations shall apply for the following sites, except those sites designated below by asterisk (\*) shall be open to archery turkey hunting without regard to firearm deer season. Those sites followed by (1) require hunters to check in and check out. Those sites followed by (2) require hunters to obtain a permit from the site before hunting:

- \* Anderson Lake Conservation Area (1)

Apple River Canyon State Park - Salem and Thompson Units (1)

Argyle Lake State Park (1)

Beaver Dam State Park (2)

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (1)

Cache River State Natural Area (1)

Campbell Pond Wildlife Management Area

Carlyle Lake Lands and Waters - Corps of Engineers Managed Lands

Carlyle Lake Wildlife Management Area (subimpoundment area closed 7 days prior to and during the southern zone waterfowl season)

Castle Rock State Park (1)

Chauncey Marsh (2) (permit available at Red Hills State Park)

Crawford County Conservation Area (1)

Cypress Pond State Natural Area (1)

Dixon Springs State Park (1)

Dog Island Wildlife Management Area (1)

East Conant Field (2)

Ferne Clyffe State Park (1)

Fort de Chartres Historic Site

Fort Massac State Park (1)

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Franklin Creek State Park (1)

Giant City State Park

Green River State Fish and Wildlife Area (no hunting Wednesday through Sunday during the controlled pheasant hunting season) (1)

Hamilton County Conservation Area (must possess valid site archery permit) (2)

Harry "Babe" Woodyard State Natural Area (2)

I-24 Wildlife Management Area (1)

Johnson-Sauk Trail State Park (closed Wednesday through Sunday during site's pheasant permit season) (1)

Jubilee College State Park (2)

Kaskaskia River State Fish and Wildlife Area

Kickapoo State Park (2)

Kinkaid Lake Fish and Wildlife Area

Lowden-Miller State Forest (1)

Mackinaw Fish and Wildlife Area (1)

Marseilles Wildlife Area (closed each Friday, Saturday, and Sunday in October) (1)

Marshall State Fish and Wildlife Area (2)

Mermet Lake State Fish and Wildlife Area (1)

Middlefork State Fish and Wildlife Area (2)

Mississippi Palisades State Park (November 1 through December 31) (2)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 16, 17 and 18

Mississippi River Pools 21, 22 and 24

Newton Lake Fish and Wildlife Area (must possess valid site archery permit) (2)

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Oakford Conservation Area

Panther Creek Conservation Area

Peabody River King State Fish and Wildlife Area (east and north subunits closed November 1) (1)

Pere Marquette State Park (1)

Pyramid State Park

\* Ramsey Lake State Park (2)

\* Randolph County Conservation Area

Ray Norbut State Fish and Wildlife Area (~~all hunting closes~~-November 30-in-Area-A; all hunting closes December 15 in Eagle Roost Area Area e) (1)

\* Red Hills State Park (1)

\* Rend Lake State Fish and Wildlife Area

Saline County Conservation Area (1)

\* Sam Dale Lake Conservation Area (2)

\* Sam Parr State Park (1)

Sand Ridge State Forest (2)

Sanganois State Fish and Wildlife Area

Sato Field (2)

Siloam Springs State Park

Site M (2)

\* Spring Lake State Fish and Wildlife Area (2)

\* Stephen A. Forbes State Park (2)

Tapley Woods State Natural Area (1)

Ten Mile Creek Fish and Wildlife Area (2)

Trail of Tears State Forest

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Turkey Bluffs State Fish and Wildlife Area

Union County Conservation Area ----- firing line unit - Statewide, season, Public Hunting Area October 1-25 days prior to the opening of goose season, reopens with the close of the Quota Zone goose season)

\* Washington County Conservation Area (1)

Weinburg-King State Park

Wildlife Hollow State Forest

Witkowsky State Wildlife Area (1)

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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1) Heading of the Part: The Taking of Wild Turkeys - Fall Gun Season

2) Code Citation: 17 Ill. Adm. Code 715

3) Section Numbers: Proposed Action:

715.10 Amendments

715.20 Amendments

715.25 Amendments

715.40 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part will open new counties, improve the Department's ability to issue permits, improve customer service, open and close State-owned or -managed sites to the fall gun turkey season and change regulations and application procedures on the sites.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
Department of Natural Resources  
524 S. Second Street  
Springfield IL 62701-1787  
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.

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B) Reporting, bookkeeping or other procedures required for compliance:  
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

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## TITLE 17: CONSERVATION

## CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

## SUBCHAPTER b: FISH AND WILDLIFE

## PART 715

## THE TAKING OF WILD TURKEYS - FALL GUN SEASON

## Section

- 715.10 Hunting Season, Open Counties and Permit Quotas  
 715.20 Statewide Turkey Permit Requirements  
 715.21 Turkey Permit Requirements - Special Hunts  
 715.25 Turkey Permit Requirements - Landowner/Tenant Permits  
 715.30 Turkey Hunting Regulations  
 715.40 Regulations at Various Department-Owned or -Managed Sites

**AUTHORITY:** Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

**SOURCE:** Adopted at 13 Ill. Reg. 14950, effective September 6, 1989; amended at 14 Ill. Reg. 12421, effective July 20, 1990; amended at 15 Ill. Reg. 11618, effective August 2, 1991; amended at 16 Ill. Reg. 11101, effective June 30, 1992; amended at 17 Ill. Reg. 10858, effective July 1, 1993; amended at 18 Ill. Reg. 10013, effective June 21, 1994; amended at 19 Ill. Reg. 11806, effective August 3, 1995; amended at 20 Ill. Reg. 10898, effective August 5, 1996; amended at 21 Ill. Reg. 9110, effective June 26, 1997; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 715.10 Hunting Season, Open Counties and Permit Quotas

- a) Season: Nine days beginning on Saturday of the Second complete 3-day weekend (Friday, Saturday, Sunday) after October 10.  
 b) Open Counties

## OPEN COUNTIES

Adams  
 Alexander  
 Brown  
 Calhoun  
 Carroll  
 Cass  
 Gallatin/Hardin (south of Rt. 13 only)  
 Greene  
 Hancock  
 Henderson  
 Jackson  
 Jersey  
 Jo Daviess

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## Johnson

## Knox

## Macoupin

## Marion

## McDonough

## Monroe

## Morgan

## Pike

## Pope (north of Rt. 146 only)

## Randolph

## Rock Island

## Saline

## Schuyler

## Scott

## Stephenson

## Union

## Whiteside

## Williamson

## Winnebago

- c) Permit quotas shall be set by the Department of Natural Resources on a county or special hunt area basis.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 715.20 Statewide Turkey Permit Requirements

- a) To take, or attempt to take, a wild turkey, Illinois residents must first obtain a "Wild Turkey Hunting Permit" from the Department of Natural Resources for a fee of \$15.00. Non-resident turkey hunters shall be charged \$75.00 for the first wild turkey hunting permit. If a second permit is obtained, the fee shall be \$25.00. Residents, except those exempted by Section 3.1 of the Wildlife Code [520 ILCS 5/3.1] are required to obtain a hunting license before hunting wild turkey. Permits are issued for a specific county or area and are valid only in the county or area designated on the permit. Applications for wild turkey permits must be mailed to:

Department of Natural Resources - Turkey

524 S. Second Street, Room 210

P.O. Box 19446

Springfield, IL 62794-9446

- b) Applicants must complete all portions of the permit application form. Incomplete applications shall be rejected and fees returned. Each applicant must submit a personal check or money order for his/her individual application. Not more than 6 applications may be submitted for group hunters. Applicants submitting applications within three weeks prior to of the season shall not be guaranteed receipt of permit by start of season.

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- c) Applications shall be accepted from residents only from the date on which they became available through the first Monday in July beginning the first Monday in July. All requests must be on an official application form. Permits are not transferable and refunds shall not be granted. Permits shall be allocated in a computerized drawing to be held in Springfield in which the first choice of county shall be allocated before the second choice is considered. Applications received after the first postmarked after the third Monday in July shall not be included in the drawing.
- d) Permits not issued during the first computerized drawing shall be available in a second computerized lottery drawing. Applications for this drawing will be accepted through the seventh Monday after the initial lottery deadline. Applications received after this date will not be included in the drawing random-daily-drawing-beginning-the third Monday in August. All hunters not receiving a permit in the first computerized drawing and non-residents may apply at this time for the available permits.
- e) Permits remaining after the two lotteries will be available in a random daily drawing that begins on the fourth Monday after the second lottery deadline. All applications received on or before this date will be processed in the first daily drawing. This drawing period is open to hunters applying for their first or second permits. Any permits not issued as of the third Monday in September shall also be available in a random-daily-drawing to those hunters who have previously received one permit. Hunters may obtain a maximum of two permits for the fall gun season.
- f) A \$3.00 service fee shall be charged for replacement permits issued by the Department, except when permits are lost in the mail, no charge shall be made.
- g) It shall be unlawful to:
- 1) Submit applications before the second computerized lottery drawing for more than one permit for the same person; or
  - 2) Apply for or receive more than two permits for the fall gun turkey season; or
  - 3) Provide false and/or deceptive information on a permit application form. In addition to criminal charges, individuals found guilty of violating this Section shall have their application rejected, permit revoked, and fees forfeited.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 715.25 Turkey Permit Requirements - Landowner/Tenant Permits

- a) The "immediate family" is defined as the spouse, children, and parents permanently residing on the same property as the landowner or tenant.
- b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with

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- a) landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit. A hunting rights lease, or other non-agricultural lease, is not valid for a landowner or tenant permit.
- c) Resident landowners who own 40 acres or more of land, and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family may apply for one free turkey permit for their property only in counties open for turkey hunting. All resident landowners/tenants that do not reside on the property must possess a valid hunting license. Nonresident Illinois landowners of 40 or more acres of land and members of their immediate family are eligible to receive a permit for their property only for a fee of \$37.50
- d) Landowners or tenants are not required to participate in the public drawing for permits and are not counted towards the total number of permits issued for a particular county.
- e) Recipients of Landowner/Tenant permits to hunt their owned or leased property may apply for one additional county-wide permit beginning the third Monday in September from any permits remaining. Fees for this additional permit shall be \$15.00 for residents and \$25.00 for nonresidents.
- f) Proof of ownership for all landowner or tenant applications must be provided by one of the following methods:
- 1) Submittal of a copy of property deed;
  - 2) Submittal of a copy of contract for deed;
  - 3) Submittal of a copy of most recent real estate tax statement upon which landowner's name appears;
  - 4) Submittal of a copy of a Farm Service Agency 156EZ form either an Agricultural Stabilization and Conservation Service Form-477; or Commodity Credit Corporation Form-476; or
  - 5) Submittal of a copy of a trust agreement which must indicate that the trust owns at least 40 acres and the applicant is a current income beneficiary of the trust.
- g) If you are applying for a tenant permit, you are required to submit, in addition to the landowner certification and proof of ownership, a copy of one of the following:
- 1) A lease (not a hunting rights lease) or rental agreement, file stamped as recorded by the county clerk, covering the current year; or
  - 2) The authorized form from the Farm Service Agency. Either an Agricultural Stabilization and Conservation Service Form-476 or Commodity Credit Corporation Form-477.
- h) If the property is owned or rented by more than one person: Only one landowner (and immediate family) or one tenant (and immediate family) will be issued a permit for every 40 acres of owned or rented land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate family may receive turkey permits.
- i) Shareholders of corporations owning 40 or more acres of land in a



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county may apply for one permit to hunt the corporation lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county, shall be issued based on ownership of lands by corporations. Lands leased to corporations shall not be considered as a basis for a permit for the shareholders of the lessee. Lands held in trust by corporations shall not be considered as a basis for a permit by the shareholders of the trustee. If application is made for a permit based upon lands owned by the corporation, a duly authorized officer of the corporation must sign a notarized statement authorizing the applicant to hunt on the corporate lands for which a permit is being requested. This statement must identify the applicant as a shareholder, identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation lands. This document must be attached to the application upon submittal to the Permit Office. The shareholder turkey permit shall be free to resident shareholders and the cost to nonresident shareholders shall be \$37.50.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 715.40 Regulations at Various Department-Owned or -Managed Sites

## a) Statewide regulations shall apply for the following sites:

Kaskaskia River State Fish and Wildlife Area (except that area north of Hwy. 154, east of the Kaskaskia River and south of Risdon School Road and Beck's Landing access road)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pool 16

Mississippi River Pool 18 (Henderson County only)

Mississippi River Pools 21, 22, 24

Panther Creek Conservation Area

b) Statewide regulations shall apply except that all hunters must check in, check out, and report harvest at those sites listed below. Quotas, where listed, shall be on a first come-first served basis. Hunters shall not be allowed to sign in prior to 4 a.m. each day of the season.

Argyle Lake State Park

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Big River State Forest

Cache River State Natural Area (Johnson County portion only)

Cypress Pond State Natural Area

Ferne Clyffe State Park

Fort de Chartres Historic Site (muzzleloading shotguns only)

Giant City State Park

I-24 Wildlife Management Area

Kinkaid Lake Fish and Wildlife Area

Pere Marquette State Park (only that portion of site south of Graham Hollow Road)

Ray Norbut State Fish and Wildlife Area

Saline County Conservation Area

Siloam Springs State Park

Tapley Woods State Natural Area

Trail of Tears State Forest

Turkey Bluffs State Fish and Wildfish Area

Union County Conservation Area - Firing Line Management Unit Only

Weinburg-King State Park

c) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 715.20. This permit is only valid for the specific site indicated on the permit.

Apple River Canyon State Park - Salem and Thompson Units

Sato Field

Site M

Witkowsky State Wildlife Area

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- d) Special program for hunters with disabilities. Statewide regulations shall apply unless designated otherwise by site regulations. Only disabled persons participating in the site's firearm deer hunt are eligible to participate. This hunt will run concurrent with the site's firearm deer hunt. Permits will be \$15-00 each; site specific for Rock Cut; issued at the site during check in for firearm deer hunting. Availability will be publicly announced.

Rock Cut State Park

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Numbers: Proposed Action:  
148.82 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments add clarifications to the Department's policies concerning organ transplant services. The proposed changes:
  - . specify the number of transplant procedures and the survival rates required by the Department in the certification and recertification of transplant programs;
  - . impose a limit on the number of years that a transplant center is required to submit data for certification and recertification of programs;
  - . address internal audit findings by revisions allowing two affiliated hospitals to submit a joint application combining the statistical data of the adult and pediatric programs when the programs share the same transplant surgeons;
  - . eliminate the time-frame limitation, concerning medically necessary work-ups, of three days prior to the transplantation procedure;
  - . add requirements that a hospital must provide written documentation of the hospital's pathology resources, blood bank support, interdisciplinary body and commitment to support the transplant center;
  - . address auditors' concerns regarding discharge summaries, by requiring such summaries prior to the approval of reimbursement;
  - . clarify that transplant centers must participate in a recognized national donor procurement program for organs or bone marrow provided by unrelated donors;
  - . provide clarifications concerning the Department's reimbursement policy for stem cell acquisition, including the mobilization, chemotherapy, cytokines and apheresis processes; and
  - . eliminate redundant language in subsections (h)(1)(A) and (C) concerning the need for transplant centers to submit annual statistical summaries and outcome summaries.

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These proposed changes were presented to, and approved by, the State Medical Advisory Committee members during the meeting of February 14, 1998. Since the amendments provide clarifications regarding services already covered by the Department, no budgetary impact is anticipated.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

Sections 148.295	Proposed Action Amendment	Illinois Register Citation April 3, 1998 (22 Ill. Reg. 6061)
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- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
201 South Grand Ave. E., 3rd Floor  
Springfield, Illinois 62763  
217/524-3215

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

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- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Hospitals will be affected by this rulemaking. The Department is unsure whether any of the affected entities may qualify as small businesses.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:



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TITLE 89: SOCIAL SERVICES  
CHAPTER 1: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

## PART 148

## HOSPITAL SERVICES

- Section  
148.10 Hospital Services  
148.20 Participation  
148.25 Definitions and Applicability  
148.30 General Requirements  
148.40 Special Requirements  
148.50 Covered Hospital Services  
148.60 Services Not Covered as Hospital Services  
148.70 Limitation On Hospital Services  
148.80 Organ Transplants Services Covered Under Medicaid (Repealed)  
148.82 Organ Transplant Services  
148.90 Heart Transplants (Repealed)  
148.100 Liver Transplants (Repealed)  
148.110 Bone Marrow Transplants (Repealed)  
148.120 Disproportionate Share Hospital (DSH) Adjustments  
148.130 Outlier Adjustments for Exceptionally Costly Stays  
148.140 Hospital Outpatient and Clinic Services  
148.150 Public Law 103-66 Requirements  
148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million  
148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act  
148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act  
148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting  
148.190 Copayments  
148.200 Alternate Reimbursement Systems  
148.210 Filing Cost Reports  
148.220 Pre September 1, 1991 Admissions  
148.230 Admissions Occurring on or after September 1, 1991  
148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements  
148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals  
148.260 Calculation and Definitions of Inpatient Per Diem Rates  
148.270 Determination of Alternate Cost Per Diem Rates for All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals  
148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements  
148.285 Excellence in Academic Medicine Payments

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- 148.290 Adjustments and Reductions to Total Payments  
148.295 Critical Hospital Adjustment Payment (CHAP)  
148.296 Supplemental Critical Hospital Adjustment Payments (SCHAP)  
148.297 Pediatric Outpatient Adjustment Payments  
148.300 Payment  
148.310 Review Procedure  
148.320 Alternatives  
148.330 Exemptions  
148.340 Subacute Alcoholism and Substance Abuse Treatment Services  
148.350 Definitions  
148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services  
148.368 Volume Adjustment (Repealed)  
148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services  
148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services  
148.390 Hearings  
148.400 Special Hospital Reporting Requirements

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18

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Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 23, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 148.82 Organ Transplant Services

- a) Introduction  
The Department of Public Aid will cover organ transplants as identified under subsection (b) below which are provided by certified organ transplant centers which meet the requirements specified in subsections (c) through (h) of this Section.
- b) Covered Services
  - 1) Bone marrow Marrow, heart, heart/lung, lung (single or double), liver, pancreas or kidney/pancreas transplantation.
  - 2) Other types of transplant procedures may be covered when a hospital has been certified by the Department as a transplant center eligible to perform such transplants. Centers must complete the certification process established in subsection (c) below and provide the necessary documentation of the number of transplant procedures performed and the survival rates.
  - 3) Medically necessary work-up and evaluation up-to-three-(3)-days prior-to-transplantation.
- c) Certification Process
  - 1) In order to be certified to receive reimbursement for transplants performed on Medicaid patients, the hospital must:

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- A) Request an application from the Bureau of Comprehensive Health Services;
- B) Submit a completed application to the Department for the type of transplant for which the center is seeking certification;
- C) Meet certification criteria established in subsection (d) below, based upon review and recommendation of each application by the State Medical Advisory Committee (SMAC); and
- D) Submit a detailed status report on each patient for the type of transplant for which the hospital is seeking certification. Such reports must include the patient's diagnosis, date of transplant, the length of hospitalization, charges, survival rates, patient-specific transplant outcome, and complications (including cause of death, if applicable) for all transplants performed in the time frames required for the type of transplant indicated in subsection (d)(1)(C), (D), (E), (F), (G), or (H) of this Section for--the--two--years--preceding--the--date--of--the--application. To protect the privacy of patients included in this report, names of Medicaid- and non-Medicaid patients are not required.
- 2) The Department shall notify the hospital of approval or denial of the hospital as a transplant center for Medicaid eligible patients.
- 3) In the event that no hospital formally certified by the Department is able to provide a covered service set forth in subsection (b) above within the time frame necessary to preserve the recipient's health, the Department shall review a request for prior approval of the service from a non-certified facility, and if the facility satisfies the criteria for certification, approve the request on an individual case basis.
- 4) A joint application combining the statistical data for the adult and pediatric programs from two affiliated hospitals that share the same surgeons may be submitted for review by the State Medical Advisory Committee. The hospitals must meet the criteria under subsections (d)(1)(A), (B), (C), (D), (H), (I), (J), (K), (L), (M), (N), (O), and (P), subsections (d)(2), (3) and (4), and subsection (e) of this Section for certification and recertification.
- d) Certification Criteria
  - 1) Hospitals seeking certification as a transplant center shall submit documentation to verify that:
    - A) The hospital is capable of providing all necessary medical care required by the transplant patient;
    - B) The hospital is affiliated with an academic health center;
    - C) The hospital has had the transplant program for heart and liver transplants in operation for at least three years with

Ill. Chicago Kent Law

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12 transplant procedures per year for the past two years and 12 cases in the three year period preceding the most current two year period before--that for adult heart and liver transplants;

D) The hospital has had the transplant program for heart/lung and lung transplants in operation for at least three years with ten transplant procedures per year for the past two years and ten cases in the three year period preceding the most current two year period before--that for adult heart/lung and lung transplants;

E) A hospital specializing in pediatric heart/lung and lung transplants has had a program in operation for at least three years and has performed a minimum of six transplant procedures per year for the past two years, and six procedures in the three year period preceding the most current two year period before--that;

F) The hospital has had the transplant program for adult and pediatric bone marrow transplants in operation for at least two years with 12 transplant procedures per year for the past two years;

G) A hospital specializing in pediatric heart or liver transplants, or both, has had a program in operation for at least three years and has performed a minimum of six transplant procedures per year for the past two years, and six procedures in the three year period preceding the most current two year period before--that;

H) A the hospital specializing in kidney/pancreas and/or pancreas transplants has had the transplant program in operation for at least three years with 25 kidney transplant procedures per year for the past two years and 25 cases in the three year period preceding the most current two year period before--that-for-kidney-transplants, and five pancreas transplant procedures per year for the past two years and five in the three year period preceding the most current two year period before--that-for-pancreas-transplants, or 12 kidney/pancreas transplant procedures per year for the past two years and 12 in the three year period preceding the most current two year period before--that-for-kidney/pancreas transplants;

I) The hospital has experts, on staff, in the fields of cardiology, pulmonology, anesthesiology, immunology, infectious disease, nursing, social services, organ procurement, associated surgery and internal medicine to complement the transplant team. In addition, in order to qualify as a transplant center for pediatric patients, the hospital must also have experts in the field of pediatrics;

J) The hospital has an active cardiovascular medical and surgical program as evidenced by the number of cardiac

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catheterizations, coronary arteriograms and open heart procedures per year for heart and heart/lung transplant candidates;

K) The hospital has pathology resources that are available for studying and reporting the pathological responses for transplantation as supported by appropriate documentation;

L) The hospital complies with applicable State and federal laws and regulations;

M) The hospital participates in a recognized national donor procurement program for organs or bone marrow provided by unrelated donors, abides by its rules, and provides the Department with the name of the national organization of which it is a member;

N) The hospital has an interdisciplinary body to determine the suitability of candidates for transplantation as supported by appropriate documentation;

O) The hospital has blood bank support necessary to meet the demands of a certified transplant center as supported by appropriate documentation; and

P) The hospital meets the applicable transplant survival rates as supported by the Kaplan-Weier method or other method accepted by the Department:

i) A one-year survival rate of 50 percent for bone marrow transplant patients;

ii) A one-year survival rate of 75 percent and a two-year survival rate of 60 percent for heart transplant patients;

iii) A one-year survival rate of 75 percent and a two-year survival rate of 60 percent for liver transplant patients;

iv) A one-year survival rate of 90 percent for kidney transplant and a one-year survival rate of 80 percent for pancreas transplant; or a one-year survival rate of 80 percent for kidney/pancreas transplant patients;

v) A one-year survival rate of 65 percent and a two-year survival rate of 60 percent for heart/lung and lung (single or double) transplant patients.

2) The commitment of the hospital to support the transplant center must be at all levels as evidenced by such factors as financial resources, allocation of space and the support of the professional staff for the transplant program and its patients. The hospital must submit appropriate documentation to demonstrate that:

A) Component teams are integrated into a comprehensive transplant team with clearly defined leadership and responsibility;

B) The hospital safeguards the rights and privacy of patients;

C) The hospital has adequate patient management plans and



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protocols to meet the patient and hospital's needs.

3) The hospital must identify, in writing, the director of the transplant program and the members of the team as well as their qualifications. Physician team members must be identified as board certified, in preparation for board certification, or pending board certification, and the transplant coordinator's name must be submitted.

4) The hospital must provide patient selection criteria including indications and contraindications for the type of transplant procedure for which the facility is seeking certification.

## e) Recertification Process/Criteria

1) The Department will conduct an annual review for certification of transplant centers. A certified center must submit documentation established under subsections (c), (d), (f) and (h) of this Section for review by the Department's State Medical Advisory Committee for recertification as a transplant center.

2) Survival rates of previous transplant patients must be documented prior to certification. The center must maintain patient volume in the year of certification based on previous transplant statistics.

3) The Department shall notify the hospital of approval or denial of the recertification of the hospital as a transplant center.

4) If the hospital has previously met the requirements for certification or recertification of its program under subsections (d)(1)(I), (J), (K), (L), (M), (N), (O), and (d)(2), (3) and (4) of this Section and the program has experienced no changes under the above subsections, as evidenced in written documentation on the hospital's application, the hospital will not be required to resubmit the same data.

## f) Notification of Transplant

1) The hospital must notify the Department prior to performance of the transplant procedure. The notification letter must be from a physician on the transplant team.

2) The notification must include the admission diagnosis and pre-transplant diagnosis.

3) The Department shall notify the hospital regarding receipt of the notification and provide the appropriate outcome summary "patient tracking" forms to the hospital.

## g) Reimbursement

1) Hospital services rendered for transplant procedures under this Section are exempt from the provisions of Sections 148.250 through 148.330 and 89 Ill. Adm. Code 149 of the Department's administrative rules governing hospital reimbursement. Hospital reimbursement for transplants covered within this Section is an all-inclusive rate for the admission, regardless of the number of days of care associated with that admission, which is limited to a maximum of 60 percent of the hospital's usual and customary charges to the general public for the same procedure for the

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number of days listed below for specific types of transplants:

A) ~~three-days-of-pre-operative-inpatient-work-up; and B) A maximum 30 consecutive days of post-operative inpatient care for heart, heart/lung, lung (single or double), pancreas, or kidney/pancreas transplant; or~~

B) 40 consecutive days of post-operative inpatient care for liver transplant; or

C) 50 consecutive days of post-operative inpatient care for bone marrow transplant; or

D) For those transplants covered under subsection (b)(2) of this Section, the number of consecutive days of inpatient care specified within the transplant certification process.

2) Reimbursement will be approved only when the Department's letter acknowledging the notification of the transplant procedure is attached to the hospital's claim. Reimbursement will not be made until the discharge summary has been submitted to the Department.

3) Applicable disproportionate share payment adjustments shall be made in accordance with Section 148.120(g). Applicable outlier adjustments shall be made in accordance with Section 148.130. Applicable Medicaid High Volume adjustments shall be made in accordance with Section 148.290(d).

4) The rate will not include transportation and physician fees when reimbursed pursuant to 89 Ill. Adm. Code 140.410 through 140.414 and 140.490 through 140.492, respectively.

5) Hospital reimbursement for bone marrow searches is limited to 60 percent of charges up to a maximum of \$25,000. Payment for bone marrow searches will only be made to the certified center requesting reimbursement for the bone marrow transplant.

6) Reimbursement for stem cell acquisition charges which includes the mobilization, chemotherapy, cytokines and apheresis processes must be billed under the appropriate revenue code on the claim submitted for the transplant procedure.

h) Reporting Requirements of Certified Transplant Center

The following documentation must be submitted within the time limits set forth in this subsection.

## 1) Patient Tracking

A) ~~The center must submit annually a statistical summary including information for all patients having received transplants at the transplant center. Patients not covered by Medicaid may be identified numerically or by other means identified by the hospital, to protect patient confidentiality. The summary must include, but is not limited to, short and long term outcome on all patients. By the discharge summary for each Medicaid patient must be received by the Department within 30 days of the patient's discharge.~~

E) The annual outcome summaries for each Medicaid patient must be received by the Department within 30 days of the annual

## DEPARTMENT OF PUBLIC AID

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patient-post-transplant-evaluation-

BB) For those Medicaid patients who expire, a summary must be received by the Department within 30 days of the patient's death.

## 2) Notification of Changes

The center must notify the Department within 30 days of any changes in its program, including, but not limited to, certification criteria, patient selection criteria, members of the transplant team and the coordinator.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Newborn Metabolic Screening and Treatment Code
- 2) Code Citation: 77 Ill. Adm. Code 661
- 3) Section Numbers: 661.70  
Proposed Action: Amendment
- 4) Statutory Authority: Authorized by and implementing the Phenylketonuria Testing Act [410 ILCS 240].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking increases the fee-for-service for Department analysis of a newborn screening from \$25 to \$32 per specimen. The fee increase will provide additional revenue for the development, implementation and maintenance of a computerized system for the transfer of client demographic information and screening results between hospitals and the Department. The additional revenue will also be used to purchase mass tandem spectrometers for diagnostic testing for PKU.
- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No
- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain any Incorporations by Reference? No
- 9) Are there any Other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandates on units of local government.
- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the Illinois Register to:  
  
Gail M. DeVito  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield IL 62761  
(217)782-2043  
E-mail: rules@idph.il.state.us
- 12) Initial Regulatory Flexibility Analysis:
  - A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected: None

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

B) Reporting, Bookkeeping or Other Procedures Required for Compliance:  
None

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The decision to propose this rulemaking had not been made when the Department filed its most recent regulatory agenda.

The full text of the Proposed Amendments begin on the next page:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER i: MATERNAL AND CHILD HEALTH

## PART 661

## NEWBORN METABOLIC SCREENING AND TREATMENT CODE

Section	
661.10	Responsibility
661.15	Definitions
661.20	Collection of Blood and Submission of Specimens
661.30	Interpretation of Results
661.35	Designation of Consultants
661.40	Reports
661.50	Diagnosis and Treatment
661.60	Exemption
661.70	Fee Assessment and Payment

AUTHORITY: Implementing and authorized by the Phenylketonuria Testing Act [410 ILCS 240].

SOURCE: Adopted December 14, 1973; emergency rules at 3 Ill. Reg. 28, p. 224, effective June 28, 1979, for a maximum of 150 days; rules repealed and new rules adopted at 3 Ill. Reg. 48, p. 42, effective November 20, 1979; amended at 5 Ill. Reg. 4593, effective April 15, 1981; amended and codified at 8 Ill. Reg. 19041, effective September 26, 1984; amended at 11 Ill. Reg. 12921, effective August 1, 1987; amended at 13 Ill. Reg. 15079, effective October 1, 1989; amended at 14 Ill. Reg. 13292, effective August 15, 1990; amended at 17 Ill. Reg. 13609, effective August 1, 1993; amended at 19 Ill. Reg. 15720, effective November 1, 1995; expedited correction at 20 Ill. Reg. 3590, effective November 1, 1995; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 661.70 Fee Assessment and Payment

- Each person who submits to the Department any sample for newborn screening shall be assessed a fee of \$32 \$25-00 for such analysis unless specimens are requested by the Department for follow-up purposes.
- Statements of fee assessment shall be mailed to persons submitting specimens for analysis on a monthly basis.
- Payment shall be rendered to the Department upon receipt of the monthly statement of fee assessment.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)



## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Motor Fuel Tax
- 2) Code Citation: 86 Ill. Adm. Code 500
- 3) Section Numbers: Proposed Action:  
500.245 Amendment
- 4) Statutory Authority: 35 ILCS 505
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends the Motor Fuel Tax Regulations by allowing the Department to accept Motor Fuel Tax estimated refund claims when those claims are supported by verifiable documentation retained in the taxpayer's books and records.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	IL Register Citation
500.270	Amendment	5/1/98, 22 Ill. Reg. 7550
500.345	Amendment	5/1/98, 22 Ill. Reg. 7550

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, IL 62794  
217/782-6996

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Claimants filing claims for refund under the

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

Motor Fuel Tax Law.

- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendment(s) begins on the next page:

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

PART 500  
MOTOR FUEL TAX

## SUBPART A: DEFINITIONS

Section  
500.100  
500.101  
500.102

Definitions  
Definition of Receiver (Repealed)  
Definition of Loss (Repealed)

## SUBPART B: MOTOR FUEL TAX

Section  
500.200  
500.201  
500.202  
500.203  
500.204  
500.205  
500.210

Basis and Rate of the Motor Fuel Tax  
Licensee  
Basis and Rate of Tax Payable by Receivers  
Monthly Returns  
Report of Loss of Motor Fuel  
Daily Gallonage Record  
Documentation of Tax-free Sales of Motor Fuel Made by Licensed Distributors and Suppliers  
Documentation of Tax-free Sales of Fuel Made by Licensed Receivers  
Vehicles of Distributors Transporting Petroleum Products (Repealed)  
Other Vehicles (Repealed)  
Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers

500.215  
500.220  
500.225  
500.230

Claims for Refund - Invoices  
Sales of Special Fuel - Variation in Usage  
Estimated Claims ~~Not-Acceptable~~  
Claimants Owning Motor Vehicles (Repealed)  
Detailed Answers

500.235  
500.240  
500.245  
500.250  
500.255  
500.260  
500.265  
500.270  
500.275  
500.280

Revocation of License, Etc. - Notice - Hearing  
Distributors' and Suppliers' Claims for Credit or Refund  
Receivers' Claims for Credit  
Procedure When Tax-Paid Motor Fuel is Returned to Licensee for Credit  
Sales of Motor Fuel to Municipal Corporations Owning and Operating Local Transportation Systems

500.285  
500.290  
500.295

Sales of Motor Fuel to Certain Privately-Owned Public Utilities Owning and Operating Transportation Systems in Metropolitan Areas  
When Purchaser's License Number With Department on Invoices Covering Sales of Special Fuel is Required (Repealed)  
Cost of Collection - Determination (Repealed)

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART C: MOTOR FUEL USE TAX

Section  
500.300  
500.301  
500.302  
500.305  
500.310  
500.315  
500.320  
500.325  
500.330  
500.335  
500.340  
500.345  
500.350  
500.355  
500.360

Licensee  
Special Motor Fuel Permits and Decals (Repealed)  
Motor Carrier's Quarterly Report (Repealed)  
Licenses and Decals  
Display of License and Decals  
Renewal of Decals and Licenses  
Single Trip Permits  
Licensee of Lessors and Lessees  
Cancellation of License  
Quarterly Payment and Reporting  
Credits and Refunds  
Records Requirements  
Revocation  
Protest Procedures  
Audits

## SUBPART D: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section  
500.400  
500.405

General Information  
Due Date That Falls on Saturday, Sunday or a Holiday

## SUBPART E: GENERAL REQUIREMENTS APPLICABLE TO ALL LICENSES AND PERMITS ISSUED UNDER THE MOTOR FUEL TAX LAW

Section  
500.500  
500.501  
500.505

Licenses and Permits Are Not Transferable  
Blenders' Permits Are Not Transferable (Repealed)  
Changes of Corporate Officers

## SUBPART F: INCORPORATION BY REFERENCE OF RETAILERS' OCCUPATION TAX

Section  
500.600

Incorporation of the Retailers' Occupation Tax Regulations by Reference

AUTHORITY: Implementing the Motor Fuel Tax Law [35 ILCS 505] and authorized by Section 39b2 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b2].

SOURCE: Adopted July 3, 1931; amended at 2 Ill. Reg. 1, p. 97, effective December 31, 1978; amended at 3 Ill. Reg. 13, p. 98, effective March 25, 1979; amended at 4 Ill. Reg. 28, p. 568, effective June 1, 1980; codified at 8 Ill.

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

Reg. 8612; amended at 10 Ill. Reg. 4540, effective February 28, 1986; amended at 11 Ill. Reg. 10295, effective May 18, 1987; emergency amendment at 13 Ill. Reg. 13271, effective August 7, 1989, for a maximum of 150 days; emergency expired January 4, 1990; amended at 14 Ill. Reg. 6826, effective April 19, 1990; amended at 15 Ill. Reg. 6305, effective April 16, 1991; amended at 15 Ill. Reg. 13538, effective August 30, 1991; recodified at 18 Ill. Reg. 4451; amended at 19 Ill. Reg. 3008, effective February 28, 1995; amended at 19 Ill. Reg. 17195, effective December 18, 1995; amended at 20 Ill. Reg. 10168, effective July 16, 1996; amended at 22 Ill. Reg. 2253, effective January 9, 1998; amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: MOTOR FUEL TAX

## Section 500.245 Estimated Claims Not-Acceptable

The Department will not approve claims for refund of Motor Fuel Tax only when where such claims are based upon a showing that part-of such motor fuel was used for a nontaxable taxable purpose, and that the part for which refund is claimed can cannot, as a practical matter, be definitely-and-exactly calculated and itemized,--but--can--only--be--estimated. When Even-where such claims are estimated or calculated, they must be supported by verifiable documentation retained in the claimant's books and records with-such-certainty-as-is-possible and-practicable--they-will-be-rejected. Only claims which can be are supported by positive proof of the exact amount of motor fuel not used for a taxable purpose will be approved.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Procedures of the Department of State Police Merit Board
- 2) Code Citation: 80 Ill. Adm. Code 150
- 3) Section Numbers: Proposed Action:  
150.430 Amendment
- 4) Statutory Authority: 20 ILCS 2610/10
- 5) A Complete Description of the Subjects and Issues Involved: Section 150.430 - This rulemaking change will replace the Statewide promotional list for the target rank of lieutenant with five separate lists.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after this issue of the *Illinois Register* to:  
  
Mr. James E. Seiber, Executive Director  
Department of State Police Merit Board  
3180 Adloff Lane, Suite 100  
Springfield, Illinois 62703  
217/786-6240

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This



## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF PROPOSED AMENDMENT

rulemaking was not anticipated at the time the 2 most recent regulatory agendas were published.

The full text of the Proposed Amendment begins on the next page:

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF PROPOSED AMENDMENT

## TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

## SUBTITLE A: MERIT EMPLOYMENT SYSTEMS

## CHAPTER IV: DEPARTMENT OF STATE POLICE MERIT BOARD

## PART 150

## PROCEDURES OF THE DEPARTMENT OF STATE POLICE MERIT BOARD

## SUBPART A: DEFINITIONS

Section  
150.10

## Definitions

## SUBPART B: CERTIFICATION FOR APPOINTMENT

Section  
150.210  
150.220  
150.230  
150.240

Qualifications  
Selection Procedures  
Recertification  
Probationary Period

## SUBPART C: CLASSIFICATION OF RANKS

Section  
150.310  
150.320

Ranks  
Interdivisional Transfers

## SUBPART D: CERTIFICATION FOR PROMOTION

Section  
150.410  
150.420  
150.430  
150.440

Board Responsibilities  
Eligibility  
Procedures  
Promotion Probationary Period (Repealed)

## SUBPART E: DISCIPLINARY ACTION

Section  
150.510  
150.520  
150.530  
150.540  
150.550  
150.560  
150.565  
150.570  
150.575  
150.580  
150.585

Merit Board Jurisdiction  
Discipline Afforded the Deputy Director  
Notification to Suspended Officer  
Petition for Review  
Form and Content of Petition for Review  
Filing Procedures  
Procedure for Processing Petition for Review  
Director's Review  
Discipline Afforded the Director  
Complaint Procedures  
Scheduling the Hearing

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF PROPOSED AMENDMENT

## 150.590 Notification to Officer

## SUBPART F: HEARINGS

## Section

- 150.610 Board Docket
- 150.620 Hearing Officer
- 150.630 Pre-hearing Conferences
- 150.640 Motions
- 150.650 Subpoenas
- 150.655 Request for Witnesses or Documents
- 150.660 Evidence Depositions
- 150.665 Hearing Procedures
- 150.670 Continuances and Extensions of Time
- 150.675 Computation of Time
- 150.680 Decisions of the Board
- 150.685 Service and Form of Papers

## APPENDIX A

## Vision Standards

## APPENDIX B

## Physical Fitness Standards

**AUTHORITY:** Implementing Sections 3 through 14 and authorized by Section 8 of the State Police Act [20 ILCS 2610/3 through 14].

**SOURCE:** Emergency rule adopted at 2 Ill. Reg. 10, p. 206, effective February 24, 1978, for a maximum of 150 days; emergency amendment at 2 Ill. Reg. 32, p. 37, effective July 27, 1978, for a maximum of 150 days; emergency amendments at 2 Ill. Reg. 51, p. 100, effective December 7, 1978, for a maximum of 150 days; adopted at 2 Ill. Reg. 52, p. 422, effective December 25, 1978; amended at 3 Ill. Reg. 47, p. 86, effective November 12, 1979; emergency amendment at 4 Ill. Reg. 6, p. 284, effective February 1, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 2739, effective March 2, 1981; amended at 6 Ill. Reg. 10954, effective August 31, 1982; codified at 7 Ill. Reg. 9900; amended at 7 Ill. Reg. 15018, effective November 2, 1983; emergency amendment at 8 Ill. Reg. 379, effective December 27, 1983, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 3038, effective February 23, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7894, effective May 23, 1984; amended at 9 Ill. Reg. 3721, effective March 13, 1985; amended at 9 Ill. Reg. 14328, effective September 6, 1985; recodified from the Department of Law Enforcement Merit Board to the Department of State Police Merit Board pursuant to Executive Order 85-3, effective July 1, 1985, at 10 Ill. Reg. 3283; amended at 10 Ill. Reg. 17752, effective October 1, 1985; amended at 11 Ill. Reg. 7760, effective April 14, 1987; amended at 11 Ill. Reg. 18303, effective October 26, 1987; amended at 12 Ill. Reg. 1118, effective December 24, 1987; amended at 12 Ill. Reg. 10736, effective June 13, 1988; amended at 13 Ill. Reg. 5201, effective April 3, 1989; emergency amendment at 13 Ill. Reg. 16607, effective September 29, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 19592, effective December 1, 1989; amended at 14 Ill. Reg. 3679, effective February 23, 1990; amended at 15 Ill.

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF PROPOSED AMENDMENT

Reg. 11007, effective July 15, 1991; amended at 16 Ill. Reg. 11835, effective July 13, 1992; emergency amendment at 16 Ill. Reg. 17372, effective October 29, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 9716, effective June 10, 1993; expedited correction at 17 Ill. Reg. 14684, effective June 10, 1993; amended at 17 Ill. Reg. 21079, effective November 22, 1993; amended at 19 Ill. Reg. 6679, effective May 1, 1995; amended at 19 Ill. Reg. 7970, effective June 1, 1995; amended at 20 Ill. Reg. 404, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 8062, effective June 4, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 13663, effective October 3, 1996; amended at 20 Ill. Reg. 14640, effective October 25, 1996; amended at 21 Ill. Reg. 14262, effective October 17, 1997; amended at 22 Ill. Reg. 5092, effective February 26, 1998; amended 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART D: CERTIFICATION FOR PROMOTION

## Section 150.430 Procedures

- a) The Board will provide each officer with official notification announcing the examination and requesting a written response respecting the officer's intention to participate.
- b) Candidates for promotion must complete examinations at the time designated by the Board in the official notification. No exceptions will be allowed.
- c) Such candidates must have taken the most recent examination offered by the Board to be eligible for certification for promotion. All candidates taking the examination for each rank will be advised of their total promotional score and standing.
- d) Promotional Process Components
  - The total promotional score will consist of combined standardized scores or respective percentage weights of the components designated for each rank:

Components	Sgt, Msg	Lt, Capt, Maj
Written Examination	50% X	X
Performance Appraisal	45% X	X
Seniority in Rank	5 X	X
Assessment Exercise	NA	X

- e) Candidates for the ranks of Lieutenant, Captain, and Major will participate in a written examination, and an assessment exercise, as well as receive a performance appraisal, and a seniority score. The combined score will be standardized to a one hundred point scale. The

## DEPARTMENT OF STATE POLICE MERIT BOARD

## NOTICE OF PROPOSED AMENDMENT

top 65% of all Master Sergeants, Lieutenants, and Captains participating in the total promotional process will be certified by the Board.

f) The Board will certify to the Director the top 65% of those Troopers, Special Agents and Sergeants participating in the total promotional process.

g) There will be statewide certification lists for the ranks of Lieutenant, Captain and Major. The certification lists for Sergeant and Master Sergeant will be according to Districts and the certification lists for Lieutenant will be according to Regions, as defined jointly by the Illinois State Police and the Illinois State Police Merit Board for promotional purposes.

h) The top ten (10) candidates on each certification list for all ranks are equally eligible for promotion by the Director; however, in the event of a tied score, all candidates obtaining such score shall be equally eligible for promotional consideration. The Director may promote accordingly any one of the eligible candidates in accordance with Equal Employment Opportunity Commission regulations (29 CFR 1600 et seq. (July 1, 1982)) and Illinois Department of Human Rights guidelines.

1) As promotions are accepted or waived, that candidate with the next highest total promotional score on the list becomes equally eligible for promotion; however, in the event of a tied score, all candidates obtaining such score shall be equally eligible for promotional consideration;

2) Eligible candidates on the certification list may decline an offer of promotion without losing position on the certification list. In the event of declination, that candidate with the next highest total promotional score becomes equally eligible for promotion; however, in the event of a tied score, all candidates obtaining such score shall be equally eligible for promotional consideration.

i) Upon written notification from the Department to the Board that a candidate on the certification list has been suspended, is on leave of absence, or has applied for disability benefits, the Board will remove the candidate's name from the certification list. The candidate's name will be restored on the list in a position in proper relation to the total promotional scores remaining when the suspension or leave of absence terminates or the disability is removed.

j) The certification list shall remain in force until the new certification list has been established; however, in the event that a certification list becomes exhausted, the Director will file a written request with the Board asking for the certification of additional names on any one list if necessary to fill vacant positions.

(Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Standards and Licensure Requirements for Community-Integrated Living Arrangements

2) Code Citation: 59 Ill. Adm. Code 115

3) Section Numbers: Adopted Action: Amendment 115.320

4) Statutory Authority: Implementing the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135] and the Health Care Worker Background Check Act [225 ILCS 46] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-1104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

5) Effective Date of Rulemaking: April 28, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: April 28, 1998

9) Notice of Proposal Published in Illinois Register: June 6, 1997; 59 Ill. Reg. 6695

10) Has JCAR Issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part: No

15) Summary and Purpose of Rulemaking: Part 115 is being amended to require agencies with programs licensed or certified under the Community Integrated Living Arrangement Licensure and Certification Act [210 ILCS 135] and this Part to report suspected incidents of abuse or neglect against individuals in these programs to the Office of Inspector General (Section 6.2 of the Abused and Neglected Long Term Care Facility Residents Reporting Act [210 ILCS 30/6.2]).

The Department realized the need for this rulemaking during the development of its rules on the investigations of alleged abuse or neglect and deaths in State-operated and community agency facilities. These rules



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

[59 Ill. Adm. Code 50] were proposed in the January 2, 1998 issue of the *Illinois Register*.

16) Information and answers to questions regarding this adopted rule shall be directed to:

Ms. Susan Weir, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
3rd Floor, Harris Bldg.  
Springfield, Illinois 62762  
Telephone number: (217) 785-9772  
TTY: (217) 557-1547

The full text of Adopted Amendments begins on the next page:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 59: MENTAL HEALTH  
CHAPTER I: DEPARTMENT OF HUMAN SERVICES

## PART 115

## STANDARDS AND LICENSURE REQUIREMENTS FOR COMMUNITY-INTEGRATED LIVING ARRANGEMENTS

## SUBPART A: GENERAL PROVISIONS

Section	Purpose
115.100	Incorporation by reference
115.110	Definitions
115.120	

## SUBPART B: SERVICE REQUIREMENTS

Section	Description
115.200	Criteria for participation of individuals
115.210	Criteria for termination of individuals
115.215	Community support team
115.220	Interdisciplinary process
115.230	Medical services and medications
115.240	Individual rights and confidentiality
115.250	

## SUBPART C: GENERAL AGENCY REQUIREMENTS

Section	Description
115.300	Environmental management of living arrangements
115.310	Geographic location of community-integrated living arrangements
115.320	Administrative requirements
115.321	Application for waiver of the prohibition against employment
115.325	Monitoring and evaluation
115.330	Accreditation

## SUBPART D: LICENSURE REQUIREMENTS

Section	Description
115.400	Applicability
115.410	Issuing a license and period of licensure
115.420	License application
115.430	Application acceptance and verification
115.440	Non-transferability of license
115.450	Cessation of operations
115.460	License revocation
115.470	Hearings

APPENDIX A Specific Level of Functioning Assessment and Physical Health Inventory

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

**AUTHORITY:** Implementing the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135] and the Health Care Worker Background Check Act [225 ILCS 46], and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Department of Mental Health and Developmental Disabilities Act [20 ILCS 1705/5].

**SOURCE:** Adopted at 14 Ill. Reg. 10865, effective July 1, 1990; emergency amendment at 14 Ill. Reg. 20550, effective December 5, 1990, for a maximum of 150 days; emergency expired May 18, 1991; amended at 15 Ill. Reg. 8560, effective May 24, 1991; emergency amendment at 16 Ill. Reg. 2676, effective February 1, 1992, for a maximum of 150 days; emergency expired on June 30, 1992; amended at 17 Ill. Reg. 21434, effective November 29, 1993; amended at 21 Ill. Reg. 2205, effective February 1, 1997; amended at 21 Ill. Reg. 6085, effective May 5, 1997; amended at 21 Ill. Reg. 8832, effective June 25, 1997; recorded from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; amended at 22 Ill. Reg. 8382, effective APR 28 1998.

**CO 8 2 3**

## SUBPART C: GENERAL AGENCY REQUIREMENTS

## Section 115.320 Administrative requirements

## a) Governing body

- 1) Each agency which is owned or operated by any corporation, association, or unit of local government shall have a governing body in which is vested authority and responsibility for the organization, management, control, and operation of the agency and all programs, services, facilities and residences it administers.

- 2) Each agency shall have provisions for obtaining input from consumers and/or consumer representatives to the governing body.

## b) Staffing

- 1) Mental health and developmental disabilities staff shall be licensed or certified as required by Illinois laws.

- 2) When paraprofessional or untrained staff are used in direct services, they shall be supervised in the provision of services by professional staff.

## c) General program requirements

Agencies funded by the Department shall meet the following general program requirements for all funded services:

## 1) Service setting

Services shall be provided in the setting most appropriate to the needs of the individual. This may include the individual's home, the agency, or the community. All settings shall be used innovatively in order to reach the target populations.

## 2) Recordkeeping

- A) Cumulative case records including an individualized service

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

plan shall be maintained for each individual.

- B) The individualized service plan shall state the goal(s) for each individual. The individual shall be afforded the opportunity and encouraged to participate in goal/objective selection. Goals/objectives shall include timeframes specified by the agency's professional staff, in consultation with the individual and relevant collaterals. "Individualized service plan", as used herein, refers to and is equivalent to "individual treatment plan" and "individual habilitation plan".

- 3) Behavior management and human rights review  
Each agency is required to establish or ensure a process for the periodic review of behavior intervention and human rights issues involved in the individual's treatment and/or habilitation. Agencies required to have behavior intervention and human rights review policies and procedures under licensure or certification standards shall continue to comply with those standards.

## 4) Abuse and neglect

Each agency shall have and use a process for reporting and handling instances of abuse and neglect in accordance with applicable standards, regulations and laws.

## 5) Admission to programming

- A) Agencies shall not discriminate in the admission to and provision of needed services to individuals on the basis of race, color, sex, religion, national origin, ancestry, or disability.

- B) Admission policies and procedures shall be set forth in writing and be available for review.

## 6) Compliance with life safety standards and requirements

All program facilities shall be in compliance with applicable State licensure requirements and local ordinances with regard to fire, building, zoning, sanitation, health, and safety requirements.

## 7) Personnel requirements

- A) A licensed physician (MD or DO) shall assume medical and legal responsibility for medical services offered in any program, including prescription of medications.

- B) All services shall be provided by appropriately trained staff, operating under the supervision of qualified clinical professionals.

## 8) Mandated services

- A) Mandated services shall be provided according to the requirements as stated in the Department's rules at 59 Ill. Adm. Code 125 (Recipient Discharge/Linkage/Aftercare).

- B) The Department shall monitor the provision of mandated follow-up monitoring services as outlined in 59 Ill. Adm. Code 125.

## 9) Utilization review

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Utilization review is the ongoing review of services delivered, their intensity and their duration, to determine adherence to generally accepted guidelines or standards regarding the individual's assessment, eligibility for service and appropriateness of services rendered. Agencies shall engage in a utilization review process for all program services.

- 10) Visits to programs
  - The agency shall ensure that Department-authorized consumer interest groups shall be permitted, with the consent of individuals, to visit agencies and living arrangements owned or leased by an agency.

## d) Staff training

- 1) Direct service staff shall receive training as a part of an orientation program. Staff without previous experience in direct service to individuals shall receive training prior to unsupervised responsibility for direct service unless trained personnel are on site and available for on-the-job training. Direct service staff who have completed training in the below mentioned areas, as documented in their personnel records, shall not be required to repeat that training as part of their orientation. Staff without demonstrated competence shall receive training in the following areas, as recorded in their personnel records.

- A) Cardiopulmonary resuscitation (CPR), Heimlich maneuver and first aid;
- B) Concepts of treatment, habilitation and rehabilitation including behavior management, normalization, age appropriateness and psycho-social rehabilitation depending on the needs of the individuals served or to be served;
- C) Safety, fire, and disaster procedures;
- D) Abuse, neglect and unusual incident prevention, handling and reporting;
- E) Individual rights in accordance with Chapter 2 of the Code and maintaining confidentiality in accordance with the Confidentiality Act;
- F) The nature and structure of the individual integrated services plan;
- G) The type, dosage, characteristics, effects and side effects of medications prescribed for individuals;
- H) Screening for involuntary muscular movement, which may be indicative of tardive dyskinesia;
- I) Development and implementation of an individual integrated services plan;
- J) Formal assessment instruments used and their role in the development of the services plan;
- K) Documentation and recordkeeping requirements with reference to the services plan; and
- L) Other training which relates specifically to the type of

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disability or treatment and intervention techniques being used specific to individuals living in CIAs geared toward assisting staff execute objective objectives obtained in the services plans.

- 2) After completion of training specified in subsection (c)(1) of this Section, each direct service staff member shall participate in ongoing staff development activities as outlined in the agency's staff development plan.

- 3) All training shall be documented in each employee's personnel record and shall be readily available for review by Department surveyors.

- 4) The agency shall implement a written training plan which lists training to be offered to meet the requirements of this Part and the methods used for completion of any required training.

## e) Volunteer training

The agency shall provide an orientation and training program for volunteers specific to volunteer duties and shall provide staff supervision as necessary.

## f) Quality assurance

- 1) There shall be a written quality assurance plan and ongoing activities designed to review and evaluate services to individuals, operation of programs and to resolve identified problems.

- 2) The agency's quality assurance program shall be the basis for annually certifying to the Department that individuals are receiving appropriate community-based services consistent with their services plans, that all programs and services are supervised by the agency and comply with this Part.

- A) If a certified CIAA does not continue to meet standards, the agency shall correct deficiencies within 30 days; or
- B) If deficiencies in a certified CIAA cannot be corrected within 30 days, the agency shall withdraw certification of the CIAA program in question and notify the Department. The agency shall remain responsible for those individuals who live in or lived in the affected CIAA.

## g) Unusual incidents

- 1) The agency shall ensure that staff know how to address unusual incidents and shall have written policies and procedures for handling, investigating, and reporting, tracking and analyzing of unusual incidents through the agency's management structure, up to and including the authorized agency representative. The agency shall ensure that staff demonstrate their knowledge of and follow such policies and procedures which shall include but are not limited to, the following:

- A) Sexual assault;
- B) Abuse or neglect;
- C) Death;
- D) Physical injury as clarified in the definition of "Abuse" in



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Section--115--120;

- E) Assault;  
 F) Missing persons;  
 G) Theft; and  
 H) Criminal conduct.
- 2) Within 24 hours of occurrence the agency shall report any incident which is subject to the Criminal Code of 1961 (111-Rev-Stat--1991--ch--387--par--1-i-et-seq-7 [720 ILCS 5] to the local law enforcement agencies.
- 3) The agency shall ensure that suspected instances of abuse or neglect against individuals in programs which are licensed by the Department are reported to the Office of Inspector General (Section 6.2 of the Abused and Neglected Long Term Facility Residents Reporting Act (210 ILCS 30/6.2)) Department.
- 4) ~~Either--the--Department--of--State--Police--or--the--Department--shall investigate--all--incidents--of--abuse--or--neglect--reported--to--the Department--~~
- h) Individuals' records
- 1) The agency shall ensure the confidentiality of individuals' records in accordance with the Act and shall ensure safekeeping of all records against loss or destruction.
  - 2) The agency shall maintain a chronological record for each individual. Records shall be located at the program site at which individuals are being served.
    - A) Each entry shall be legible, dated and authenticated by the signature and title of the person making the entry.
    - B) Corrections shall be initialed and made in such a way as to leave the original incorrect entry legible.
    - C) When symbols or abbreviations are used, the agency shall provide a legend to explain them which shall be standardized throughout the agency.
  - 3) On an individual's entry into the agency, the following information shall be obtained, recorded and updated as necessary in the individual's record:
    - A) Identifying information including name, date of birth, sex, race, social security number and legal status;
    - B) The name, address and telephone number of the legal guardian or the person to be notified in case of an emergency;
    - C) The language spoken or understood by the individual including, in the case of an individual who is hearing impaired, the individual's preferred mode of communication, e.g., American sign language, signed English, aural, oral or tactile communications device;
    - D) Prescribed medications, reactions and side effects to substances;
    - E) Physical and dental examinations, and medical history;
    - F) Consent to receive emergency medical services; and

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- G) Copies of the authorization for release of information. The following shall be entered in the individual's record during the period of service:
- A) Written informed consent by the individual or guardian to participate in a CILA;
  - B) Prior service history;
  - C) Initial assessment and individual integrated services plan, and reassessments, and individual integrated services plan as described in Section 115.230 (f) through (o);
  - D) Documentation of approval to use special procedures and the results of their use;
  - E) Progress notes, which shall be entered chronologically and at least monthly, documenting the individual's involvement in and response to the services plan.
- i) Financial and operational requirements  
 Agencies licensed to provide CILAs shall comply with 59 Ill. Adm. Code 103 (Grants).

(Source: Amended at 22 Ill. Reg. 0382, effective

APR 28 1993)

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1) Heading of the Part: Portability of Creditable Service Time for Downstate and Suburban Police Pension Funds

2) Code Citation: 50 Ill. Adm. Code 4404

3) Section Number: Adopted Action:

4404.10	New Section
4404.20	New Section
4404.30	New Section
4404.40	New Section
4404.50	New Section
4404.60	New Section
4404.70	New Section
4404.80	New Section
4404.90	New Section
4404.100	New Section
4404.110	New Section
4404.120	New Section
4404.130	New Section
4404.140	New Section
4404.111	New Section
4404.112	New Section

4) Statutory Authority: Implementing Sections 3-109.1, 110, 110.7, 7-139.9 and authorized by Section 3-110 of the Illinois Pension Code [40 ILCS 5/3-109.1, 110, 110.7, 7-139.9] (see P.A. 90-460, effective August 17, 1997).

5) Effective Date of Rules: 5/4/98

6) Does this rule contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? Yes

8) Date filed in Agency's Principal Office: MAY 04 1998

9) Notice of Proposal Published in Illinois Register: December 19, 1997, 21 Ill. Reg. 16241

10) Has JCER issued a Statement of Objections to this rule? No

11) Difference(s) between proposal and final version:

- a) In the table of contents, 4404.ILLUSTRATION A, add "an Officer's" following "for".
- b) In the table of contents add "4404.ILLUSTRATION B DOI Information Request for a Chief of Police's Creditable Service Transfer".

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c) Section 4404.10 - On the last line add "municipal law "enforcement service" following "entire".

d) Section 4404.20(a)(2) - On the sixth line delete "creditable" and add "municipal law enforcement" following "transfer".

e) Section 4404.30 add "Date of Transfer shall be defined as the date the officer's application is received by the current pension fund. This definition shall apply for purposes of calculation only under Section 3-110.7(a)(1) of the Illinois Pension Code [40 ILCS 5/3-110.7(a)(1)]."

f) Section 4404.30 add "Municipal Law Enforcement Service shall be defined as service with the police department of a participating municipality for which the applicant established creditable service under Section 7-139.9 as a result of an election exercised under Section 3-109.1 of the Illinois Pension Code [40 ILCS 5/7-139.9 and 3-109.1]."

g) Section 4404.40(a) delete "This may include periods of creditable service time which have been reinstated" and add "Periods of creditable service time which the officer is prepared to reinstate" in lieu thereof. Also, add "qualify as creditable service time to be transferred" following the statutory citation.

h) Section 4404.50(b) add "which may be considered" following "choices". On the next line add "the requirement of" following "to". On the third line add "until the completion of the transfer" following "police". In the fifth sentence delete "or rescission notification" and add "for transfer of creditable service" in lieu thereof.

i) Section 4404.50(d)(1) delete "7" and add "30" in lieu thereof.

j) Section 4404.60 add the following language at the end of this Section, "At this time the current pension fund shall also provide written notification to the independent actuary of the Department of Insurance (DOI) as applicable, requesting the actuarial amounts to be used in the true cost determination. Illustration A of this Part must accompany the notification if the DOI is performing the actuarial calculations."

k) Section 4404.70 - In the second sentence add "verify the creditable service time on record, and" following "also".

l) Section 4404.80(a) - On the second line delete "including" and add "to include 6% annual interest on the declining balance, and" in lieu thereof. Also delete "or interest".

m) Section 4404.90(a) - On the third line add ", and if applicable, repay

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(IMRF), to any other Article 3 pension fund they are now an active member of.

This new rule not only establishes the method for calculating the true cost of transferring creditable service time, but it also sets forth the procedure for making such requests, notification requirements for both the current and prior pension funds and allows the officer, or the chief of police, to give a final authorization to make such transfer. The officer, or chief of police will have given his or her final authorization only after having been fully informed of all monies available, the necessary payment schedule if applicable, and having been made aware that, if the transfer occurs and he or she fails to meet the agreed to payment schedule, they will lose their creditable service time forever.

- 16) Information and questions regarding this adopted rule shall be directed to:
- |                            |      |                            |
|----------------------------|------|----------------------------|
| Scott Brandt               | (or) | Carol Casals               |
| Department of Insurance    |      | Department of Insurance    |
| 320 West Washington        |      | 320 West Washington        |
| Springfield, IL 62767-0001 |      | Springfield, IL 62767-0001 |
| 217-785-7410               |      | 217-557-2155               |

The full text of the adopted rules begins on the next page.

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the prior fund any refund with interest" following "fund".

- n) Section 4404.130(e)(2) and (3) have been reversed. In what is now subsection 4404.130(e)(2) delete "and (2)" and add ", including the amount itself" following "Section,".
- o) Section 4404.140 - On the last line delete "1-101 through 1-113.11 and 1A-101 through". Add "(d)" following "1A-113" and add "and 50 Ill. Adm. Code 4435" following "j)".
- p) Section 4404.ILLUSTRATION A - Add "an Officer's" following "for".
- q) In the introductory paragraph of this Illustration, on the first line delete "7" and add "30" in lieu thereof.
- r) In number 1, 6 and 7 of this Illustration delete "or Chief of Police's".
- s) In number 5, 6, 7 and 8 of this Illustration delete "or Rescission Notification" and add "for Transfer of Creditable Service" in lieu thereof.
- t) In number 6 of this Illustration delete "Either".
- u) In number 14 of this Illustration delete "and" following "Person" and add "and Telephone Number" following "Address".
- v) And finally at the end of this Illustration add "Pension Fund Trustee Name, Signature and Date: \_\_\_\_\_".
- w) In addition to the above noted changes, the Department has also added Illustration B to this Part. Please see the Illinois Register text for Illustration B that follows this Notice.

- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rule replace an emergency rule currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: Pursuant to P.A. 90-460, effective August 17, 1997, the Public Employee Pension Fund Division of the Department of Insurance is required to promulgate regulatory standards that will establish the method for calculating the true cost of transferring creditable service time from one Article 3 police pension fund, or pursuant to Section 3-109.1 a chief of police may transfer creditable service time from the Illinois Municipal Retirement Fund



## DEPARTMENT OF INSURANCE

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## TITLE 50: INSURANCE

## CHAPTER I: DEPARTMENT OF INSURANCE

## SUBCHAPTER aaa: PENSIONS

## PART 4404

PORTABILITY OF CREDITABLE SERVICE TIME FOR  
DOWNSTATE AND SUBURBAN POLICE PENSION FUNDS

Section	Purpose
4404.10	Applicability
4404.20	Definitions
4404.30	Request and Recision Notifications
4404.40	Method of Calculation
4404.50	Current Fund Notification Requirement
4404.60	Prior Fund Notification Requirement
4404.70	Current Fund Payment Schedule
4404.80	Final Authorization to Transfer or Withdraw
4404.90	Transfer of Creditable Service Time
4404.100	Failure to Pay, or Death of the Officer or Chief of Police
4404.110	Forfeiture
4404.120	Current Pension Fund Reporting Requirements
4404.130	Failure to Comply
4404.140	

ILLUSTRATION A DOI Information Request for an Officer's Creditable Service Transfer

ILLUSTRATION B DOI Information Request for a Chief of Police's Creditable Service Transfer

AUTHORITY: Implementing Section 3-109.1, 110, 110.7 and 7-139.9, and authorized by Section 3-110 of the Illinois Pension Code [40 ILCS 5/3-109.1, 110, 110.7, 7-139.9 (see P.A. 90-460, effective August 17, 1997)].

SOURCE: Emergency rules adopted at 21 Ill. Reg. 16453, effective December 9, 1997, for a maximum of 150 days; adopted at 22 Ill. Reg. 8391, effective MAY 04 1998.

## Section 4404.10 Purpose

The purpose of this Part is to allow active members of either an Article 3 police pension fund, or a chief of police who is a member of the Illinois Municipal Retirement Fund (IMRF) program for Sheriff's Law Enforcement Employees (SLEE), to transfer all of their previously accumulated creditable service time in a specified Article 3 police pension fund or the entire municipal law enforcement service time held in IMRF.

## Section 4404.20 Applicability

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- a) The transfer of creditable service provisions of this Part apply to:
- Any police officer who has actively served at least 2 years in the police pension fund from which creditable service time is being transferred, except for:
    - Those officers who were laid off, or otherwise involuntarily terminated through no fault of the officer, with less than 2 years of service in the pension fund, or
    - Those officers who were not in service under the previous fund on, or after, August 17, 1997, and
  - Beginning August 17, 1997, and until January 1, 1999, a chief of police who has previously elected to participate in the Illinois Municipal Retirement Fund (IMRF) program for Sheriff's Law Enforcement Employees (SLEE) may rescind this election and transfer municipal law enforcement service back to the Article 3 police pension fund in which the person is currently an active member.
- b) This Part also applies to the following police pension funds:
- Any Article 3 police pension fund established pursuant to Section 3-101 of the Illinois Pension Code [40 ILCS 5/3-101], and
  - The Illinois Municipal Retirement Fund (IMRF) established pursuant to Section 7-101 of the Illinois Pension Code [40 ILCS 5/7-101].

## Section 4404.30 Definitions

Chief of Police shall be defined by Section 3-109.1 of the Illinois Pension Code [40 ILCS 5/109.1 (see P.A. 90-460, effective August 17, 1997)].

Creditable Service shall be defined by Section 3-110 of the Illinois Pension Code [40 ILCS 5/3-110 (see P.A. 90-460, effective August 17, 1997)].

Date of Transfer shall be defined as the date the officer's application is received by the current pension fund. This definition shall apply for purposes of calculation only under Section 3-110.7(a)(1) of the Illinois Pension Code [40 ILCS 5/3-110.7(a)(1)].

Director shall be defined as the Director of the Illinois Department of Insurance.

IMRF shall be defined as the Illinois Municipal Retirement Fund.

Municipal Law Enforcement Service shall be defined as service with the police department of a participating municipality for which the applicant established creditable service under Section 7-139.9 as a result of an election exercised under Section 3-109.1 of the Illinois Pension Code [40 ILCS 5/7-139.9 and 3-109.1].

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until the completion of the transfer, are: retirement, deferred retirement, disability and withdrawal. For each applicable status choice, the actuary shall provide the current pension fund with two actuarial accrued liability, or reserve, amounts. The first amount shall be the actuarial accrued liability, or reserve, computed using the combined years of service in the current fund and previous fund(s). The second amount shall be the actuarial accrued liability, or reserve, computed using only the years of service in the current fund. These amounts shall be computed as of the date the current pension fund receives either the request for transfer of creditable service. The benefit amounts used in computing the actuarial accrued liability, and reserve, amounts shall be consistent with the years of service used in each separate actuarial accrued liability, or reserve, amount calculation. The true cost for each status shall be equal to the excess of the amount computed using the combined years of service in all funds over the amount computed using the years of service in the current pension fund.

- c) The method of calculating the true cost of transferring creditable service time shall be dependent on the anticipated status of the officer or chief of police as determined by the current pension fund at the time of the service transfer, or immediately thereafter. It is the current pension fund's responsibility to determine the most likely status of the officer or chief of police after the transfer of creditable service time.
- d) The current pension fund board of trustees shall determine the true cost for the requested period of creditable service time with information provided to the current pension fund by either:
  - 1) the Illinois Department of Insurance, upon written request submitted in the format prescribed by Illustration A of this Part. The Department will return the information requested within 30 days after receipt of such request, if the Department's actuarial valuation was used for determining the funding requirements of the current pension fund, or
  - 2) the qualified actuary who was retained by the municipality or pension fund to determine the most recent actuarial valuation used for determining the funding requirements of the current fund.

## Section 4404.60 Current Fund Notification Requirement

Within 30 days after receipt of the police officer's request, the current pension fund shall provide written notification to both the requesting officer or chief of police and the prior pension fund(s) verifying receipt of such request and obtain verification of the creditable service time on record with the prior pension fund. At this time the current pension fund shall also provide written notification to the independent actuary of the Department of Insurance (DOI) as applicable, requesting the actuarial amounts to be used in the true cost determination. Illustration A of this Part must accompany the

Pension Division shall be defined as the Public Employee Pension Division of the Illinois Department of Insurance.

Police Officer shall be defined by Section 3-106 of Illinois Pension Code [40 ILCS 5/3-106].

SLEE shall be defined as the Sheriff's Law Enforcement Employees program.

Qualified Actuary shall be defined as either a member of the American Academy of Actuaries, or an individual who has demonstrated to the satisfaction of the Director that he or she possesses the educational background necessary for the practice of actuarial science who also possesses not less than 7 years of relevant actuarial experience.

## Section 4404.40 Request and Recision Notifications

- a) Any police officer who is an active member of an Article 3 police pension fund must submit a written request to his or her current pension fund board of trustees and identify, by date and time frame, the period of creditable service time to be transferred from the prior police pension fund(s) and must also identify the prior pension fund(s). Periods of creditable service time which the officer is prepared to reinstate pursuant to Section 3-110.7(b) of the Illinois Pension Code [40 ILCS 5/3-110.7(b)] qualify as creditable service time to be transferred.
- b) Beginning August 17, 1997, and until January 1, 1999, a chief of police who is a participant in the IMRF/SLEE may rescind his or her election to participate in that fund. This may include periods of creditable service time that have been reinstated pursuant to Section 7-139.9(b) of the Illinois Pension Code [40 ILCS 5/7-139.9(b)]. A recision notification must be submitted in writing to the IMRF board of trustees and must also be copied to the board of trustees for the current fund in which the chief of police is seeking transfer of creditable service time.

## Section 4404.50 Method for Calculation

- a) The qualified actuary shall provide the current pension fund with the actuarial accrued liability assuming continuation of active status, and the amount of reserve for each possible status that may apply to the officer or chief of police. Please see subsection (b) of this Section. The actuarial accrued liability and reserve amounts shall be computed using the actuarial cost method, including the same assumptions used for determining the most recent actuarial valuation for the current pension fund.
- b) The possible status choices which may be considered, in addition to the requirement of remaining active as an officer or chief of police

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notification if the DOI is performing the actuarial calculations.

**Section 4404.70 Prior Fund Notification Requirement**

Within 30 days after receipt of the current pension fund's notification, the prior pension fund(s) shall provide written notification, to both the requesting officer or chief of police and the current pension fund, which verifies receipt of the notification required by Section 4404.60 of this Part. The prior fund(s) must also verify the creditable service time on record, and identify the amount of money due to be transferred to the current fund on behalf of the officer or chief of police, specifically broken down into categories including employee contributions, employer contributions, interest and any repayments. In the event that a refund has been taken, the prior pension fund must also notify the officer or chief of police of the amount of money that will be necessary to reinstate that service time.

**Section 4404.80 Current Fund Payment Schedule**

Within 14 days after receipt of the prior pension fund(s) notification, the current pension fund shall notify the requesting officer or chief of police of the total amount needed from the officer or chief of police to transfer the designated creditable service time. This figure should represent the total amount necessary to transfer the designated creditable service time minus the amount payable by the prior pension fund(s) leaving a balance payable by the officer or chief of police to satisfy the true cost of effectively transferring the designated creditable service time. In addition, the current pension fund must:

- a) Specify the method of payment as either a lump sum or a schedule of payments, to include 6% annual interest on the declining balance, and any fees, not to exceed the 5 year statutory limit (see 40 ILCS 5/3-110(d)(3)), deemed acceptable by the current pension fund board of trustees and that payment must be made in full before the officer or chief of police terminates service; and
- b) Notify the officer or chief of police that once final authorization has been given pursuant to Section 4404.90 of this Part, such transfer cannot be reversed, and failure to satisfy the agreed to payment arrangement will result in a forfeiture of the employer paid portion and any accumulated interest on the designated creditable service time pursuant to Section 3-110.7 of the Illinois Pension Code [40 ILCS 5/3-110.7 (see P.A. 90-460, effective August 17, 1997)].

**Section 4404.90 Final Authorization to Transfer or Withdraw**

Within 14 days after receiving notification from the current pension fund, which must include a payment schedule deemed acceptable to meet the additional amount due, if applicable, the officer or chief of police must either:

- a) Provide an irrevocable written authorization to transfer creditable service time to the current pension fund, and if applicable, repay the

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- b) Submit a written request to withdraw the initial application for transferring creditable service to the current pension fund; or
- c) If the officer or chief of police fails to take action by the 15th day, pursuant to either subsection (a) or (b) of this Section, the initial request to transfer the designated creditable service time will be automatically withdrawn.

**Section 4404.100 Transfer of Creditable Service Time**

- a) Within 7 days after final authorization from the officer or chief of police has been received by the current pension fund, the current pension fund must forward a copy of the final authorization to the prior pension fund(s).
- b) Within 30 days after the prior pension fund(s) receive a copy of the officer's or chief of police's final authorization, the prior pension fund must transfer the designated creditable service time to the current pension fund along with the payment of all moneys required to be transferred.

**Section 4404.110 Failure to Pay, or Death of the Officer or Chief of Police**

- a) In the event that the officer or chief of police fails to pay the additional contributions required by the current pension fund to satisfy the effective transfer of the designated creditable service time deemed appropriate by the board of trustees and agreed to by the officer or chief of police, or the officer or chief of police terminates service before the expiration of the statutory 5 year maximum:
  - 1) The officer or chief of police will receive a refund of the actual employee contributions transferred within 30 days after failure to meet the terms of the agreed to payment schedule, plus any interest paid for reinstating service time from the prior pension fund; and
  - 2) All partial payments made by the officer or chief of police to the current fund.
- b) In the event that the officer or chief of police dies in service before payment of additional contributions has been satisfied and prior to the 5 year statutory payment period maximum:
  - 1) The surviving spouse has up to 6 months after the officer's or chief of police's death to pay the remaining balance due to satisfy the payment schedule; or
  - 2) The surviving spouse shall be entitled to the same refund as specified in subsection (a) of this Section.

**Section 4404.120 Forfeiture**

*Transferred credit that is not granted due to failure to pay the additional*



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contribution within the required time is lost; it may not be transferred to another pension fund and may not be reinstated in the pension fund from which it was transferred. [40 ILCS 5/3-110(d)(5)]

**Section 4404.130 Current Pension Fund Reporting Requirements**

Within 30 days after the designated creditable service time has been transferred to the current pension fund, the current pension fund must file a report with the Pension Division. The report must contain the following:

- a) The name and FEIN of the current pension fund to which creditable service time was transferred;
- b) The name and FEIN of the prior pension fund from which creditable service time was transferred;
- c) The name and Social Security Number of the officer or chief of police for whom creditable service time was transferred;
- d) The beginning and ending dates for all periods of creditable service time transferred;
- e) The amount transferred, including a breakdown of the total to include:
  - 1) The formula and assumptions used to determine the amount representing the officer's or chief of police's contributions, including the amount itself;
  - 2) The formula and assumptions used to determine the amount of interest paid on the amounts in subsection (e)(1) of this Section, including the amount itself;
  - 3) The formula and assumptions used to determine the amount of interest paid by the officer or chief of police to reinstate service, if any, including the amount itself;
  - 4) The amount designated as the employer contribution; and
  - 5) Any other assumptions used;

- f) In addition, the report must also contain the date that the designated creditable service time was transferred;

- g) The true cost of transferred creditable service time;
- h) If the actuarial accrued liability and reserve amounts used in determining the true cost of transferring creditable service time were calculated by a qualified actuary pursuant to Section 4404.50(d)(2) of this Part, then an actuarial certification must be filed by the current pension fund and must contain a statement that the actuarial accrued liabilities or reserves were calculated by the undersigned actuary in compliance with Section 4404.50(a), (b) and (c) of this Part;

- i) And finally, the current pension fund must provide a copy of the agreed to payment schedule which must identify:

- 1) The total amount of contributions, including any fees or interest needed from the officer or chief of police to satisfy the effective transfer of the designated creditable service time;
- 2) The payment schedule itself; and
- 3) Any contributions paid by the officer or chief of police.

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED RULES

**Section 4404.140 Failure to Comply**

If any party fails to comply with the requirements of this Part, including either the substance or filing requirements contained herein, such party shall be subject to the penalty provisions of the Illinois Pension Code [40 ILCS 5/1A-113(d)] and 50 Ill. Adm. Code 4435.

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED RULES

## Section 4404. ILLUSTRATION A DOI Information Request for an Officer's Creditable Service Transfer

Please Forward This Request To:

Illinois Department of Insurance  
Public Employee Pension Division  
320 West Washington Street  
Springfield, Illinois 62767-0001

Within 30 working days after the Illinois Department of Insurance receives this request the Department will provide the current pension fund with the actuarial accrued liability, and reserve, amounts to be used in determining the true cost of transferring creditable service time.

1. Officer's Name: \_\_\_\_\_
2. SS#: \_\_\_\_\_
3. D.O.B.: \_\_\_\_\_
4. Entry Date into Current Fund: \_\_\_\_\_
5. Date Current Pension Fund Received Request for Transfer of Creditable Service: \_\_\_\_\_
6. Officer's Age at the Time the Current Pension Fund Receives the Request for Transfer of Creditable Service: \_\_\_\_\_
7. Current Annual Salary of the Officer as of the Date the Current Pension Fund Received the Request for Transfer of Creditable Service: \_\_\_\_\_
8. Years, Months and Days of Creditable Service Time in Current Fund to Date Current Pension Fund Receives Request for Transfer of Creditable Service: \_\_\_\_\_
9. Date(s) of Any Service Breaks from Current Fund Where Service Credit Was Not Given: \_\_\_\_\_
10. Entry Date into Prior Pension Fund(s): \_\_\_\_\_
11. Date of Termination from Prior Pension Fund(s): \_\_\_\_\_
12. Years, Months and Days of Creditable Service Time Being Transferred from Prior Pension Fund(s): \_\_\_\_\_
13. Date(s) of Any Service Breaks from Prior Pension Fund Where Service Credit Was Not Given: \_\_\_\_\_

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED RULES

## 14. Current Pension Fund Contact Person, Mailing Address and Telephone Number:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pension Fund Trustee Name, Signature and Date: \_\_\_\_\_

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED RULES

## Section 4404. ILLUSTRATION B DOI Information Request for a Chief of Police's Creditable Service Transfer

Please Forward This Request To:

Illinois Department of Insurance  
Public Employee Pension Division  
320 West Washington Street  
Springfield, Illinois 62767-0001

Within 30 working days after the Illinois Department of Insurance receives this request the Department will provide the current pension fund with the actuarial accrued liability, and reserve, amounts to be used in determining the true cost of transferring creditable service time.

1. Chief of Police's Name: \_\_\_\_\_
2. SS#: \_\_\_\_\_
3. D.O.B.: \_\_\_\_\_
4. Entry Date into IMRF SLEE: \_\_\_\_\_
5. Date Current Municipality Article 3 Pension Fund Received Request for Creditable Service Transfer: \_\_\_\_\_
6. Chief of Police's Age at the Time the Current Pension Fund Received the Request for Creditable Service Transfer: \_\_\_\_\_
7. Current Annual Salary of Chief of Police as of the Date the Current Article 3 Pension Fund Received the Request for Creditable Service Transfer: \_\_\_\_\_
8. Years, Months and Days of Creditable Service Time in IMRF SLEE to Date the Current Article 3 Pension Fund Received the Request for Creditable Service Transfer: \_\_\_\_\_
9. Entry Date into Prior Article 3 Pension Fund Not Included in IMRF SLEE Creditable Service Time: \_\_\_\_\_
10. Date of Termination from Prior Article 3 Pension Fund Not Included in IMRF Creditable Service Time: \_\_\_\_\_
11. Years, Months, and Days of Creditable Service Time Being Transferred from IMRF SLEE: \_\_\_\_\_
12. Years, Months and Days of Creditable Service Time Being Transferred from

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED RULES

Prior Article 3 Pension Fund Not Included in IMRF SLEE: \_\_\_\_\_

13. Current Article 3 Pension Fund Contact Person, Mailing Address and Telephone Number: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Surface Mined Land Conservation and Reclamation Act
- 2) Code Citation: 62 Ill. Adm. Code 300
- 3) Section Number: Adopted Action:  
 300.10 Amend  
 300.200 Amend  
 300.210 Amend  
 300.220 Amend  
 300.225 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Mined Land Conservation and Reclamation Act [225 ILCS 715].
- 5) Effective Date of Amendments: 4/28/98
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
- 8) Date filed in Agency Principal Office: 4/28/98
- 9) Notice(s) of Proposal published in Illinois Register: 22 Ill. Reg. 2668, February 6, 1998
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Difference(s) between proposal and final version:

- a) The Table of Contents have been separated into two parts. They are:  
 "SUBPART A: SURFACE MINED LAND CONSERVATION AND RECLAMATION ACT" has been added at the top and "SUBPART B: USE OF EXPLOSIVES IN NON-COAL MINERAL EXTRACTION OPERATIONS" has been added before Section 300.200 and "Section" has been added before "300.200"; In the Table of Contents, "300.200" "of this Subpart" has been added after the word "Scope"; in "300.210", "Applicable to Subpart B" has been added after the word "Definitions". The Authority Note citation has been corrected and the Source Note reflects the recodification from Department of Mines and Minerals to Department of Natural Resources.
- b) After the Source Note, "SUBPART A: SURFACE MINED LAND CONSERVATION AND RECLAMATION ACT" has been added and Section 300.10 has been added to update its Source Note.
- c) Section 300.10 has been changed to the following: "Authority This Subpart Part implements the Surface Mined Land Conservation and Reclamation Act of 1971, as amended by P.A. 78-1295, effective July 1, 1975. This Part applies to all surface mining activity conducted in

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- the State and is effective thirty (30) days after the date it is filed with the Secretary of State as provided by the Act. Any rules previously promulgated pursuant to the Act are declared null and void on January 6, 1976 at the time when this Part becomes effective. Upon approval, conditional or unconditional, of the Illinois permanent program by the Secretary of the Interior, the following rules and statutory provisions become inapplicable to operations mining coal: Rules 201-5, 301-2, 401-3, 501-2, 601-2, 701-9, 901-2, 1001-2, and 1201-3, and Sections 4, 5, 8, 11, and 12 of the Surface Mined Land Conservation and Reclamation Act, as amended. Eight (8) months after the date of such approval, the remainder of this Part shall become inapplicable to operations mining coal."
- d) Section 300.10(b), "Part" has been stricken and "Subpart" has been added; in the definition of "Act", "as amended" has been stricken
- e) After Section 300.10, "SUBPART B: USE OF EXPLOSIVES IN NON-COAL MINERAL EXTRACTION OPERATIONS" has been added and Section 300.200 has also been added to update its Source note.
- f) Section 300.200 has been amended as follows:  
 Section 300.200 Scope of this Subpart  
 This Subpart These rules shall cover the use of explosives in non-coal mineral extraction operations pursuant to Section 6.5 of the Surface Mined Land Conservation and Reclamation Act P.A. 99-267, enacted June 23, 1995. They are intended to supplement and not supersede the requirements of any other federal or Illinois statute or regulation. Inasmuch as the provisions of this Subpart these regulations contradict such other statute or regulation, that statute or regulation shall control.  
 (Source: Amended at 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)."
- g) In Section 300.210, the parenthesis have been changed to brackets; in the definition of "Earth liners", the "l" has been capitalized; the "w" in "Inert waste" has been capitalized.
- h) Section 300.225(d)(2), "to" has been omitted.
- i) Throughout the rulemaking, the numerals have been simplified
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency rule currently in effect? No

DEPARTMENT OF NATURAL RESOURCES  
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- 14) Are there any amendments pending of this Part? No
- 15) Summary and purpose of amendments: The rules enable the Department to regulate blasting operations at aggregate mines that are located near landfills. Specifically, when the blast is within 500 feet of a landfill, aggregate mine operators are required to monitor blasts, to maintain records that include the distance and scaled distance of a landfill and to conduct the blasting in order to control ground vibrations not to exceed five inches per second, at the closest part of the landfill.
- 16) Information and question regarding this adopted amendment shall be directed to:

Cindy Bushur-Hallam, Legal Counsel  
Department of Natural Resources  
524 South Second Street  
Springfield, IL 62701  
(217)782-1809

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES  
NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 300  
SURFACE MINED LAND CONSERVATION AND RECLAMATION ACT

SUBPART A: SURFACE MINED LAND CONSERVATION AND RECLAMATION ACT

Section	
300.10	Introduction
300.20	Permits
300.30	Fees
300.40	Bonds
300.50	Permit Application Requirements
300.60	Role of County Government in Reclamation
300.70	Departmental Consideration of Reclamation Plans
300.80	Public Filing of Approved Plans
300.90	Amendments to Permits
300.100	Reclamation Planning
300.110	General Reclamation Requirements
300.120	Criteria For Types of Land Reclamation
300.130	Reclamation of Gob Disposal Areas and Outside Slopes of All Overburden Deposition Areas
300.140	Reclamation of Slurry Pond Disposal Areas
300.150	Water Impoundment Structures
300.160	Affected Acreage Map
300.170	Violations and Forfeiture
300.180	Bond Release Procedure

SUBPART B: USE OF EXPLOSIVES IN NON-COAL MINERAL EXTRACTION OPERATIONS

Section	
300.200	Scope of this Subpart
300.205	Purpose
300.210	Definitions Applicable to Subpart B
300.215	General Requirements
300.220	Monitoring
300.225	Use of Explosives; Control of Adverse Effects
300.230	Use of Explosives; Blasting Signs, Warnings and Access Control
300.235	Training
300.236	Examination
300.237	Application and Licensure
300.238	Fees
300.239	Denial, Issuance of Notice of Infracton, Suspension, Revocation and Other Administrative Actions
300.245	Notices of Violation
300.246	Cessation Orders

## DEPARTMENT OF NATURAL RESOURCES

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300.247 Office of Mines and Minerals Decision  
 300.248 Hearings  
 300.249 Temporary Relief  
 300.250 Subpoenas  
 ILLUSTRATION A Tree Sampling Procedure  
 ILLUSTRATION B Typical Sections

AUTHORITY: Implementing and authorized by the Surface Mined Land Conservation and Reclamation Act [225 ILCS 715].

SOURCE: Adopted January 6, 1976; codified at 8 Ill. Reg. 4507; amended at 14 Ill. Reg. 3548, effective February 22, 1990; amended at 20 Ill. Reg. 9546, effective July 1, 1996; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 21 Ill. Reg. 16192; amended at 22 Ill. Reg. 8407, effective APR 28 1998.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

## SUBPART A: SURFACE MINED LAND CONSERVATION AND RECLAMATION ACT

## Section 300.10 Introduction

## a) Authority

This Subpart Part implements the Surface Mined Land Conservation and Reclamation Act of 1971, ~~as amended by P.A. 78-1295, effective July 1, 1975~~. This Part applies to all surface mining activity conducted in the State ~~and is effective thirty (30) days after the date it is filed with the Secretary of State as is provided by the Act~~. Any rules previously promulgated pursuant to the Act are declared null and void on January 6, 1976 ~~at the time when this Part becomes effective~~. Upon approval, conditional or unconditional, of the Illinois permanent program by the Secretary of the Interior, the following rules and statutory provisions become inapplicable to operations mining coal: Rules 201-5, 301-2, 401-3, 501-2, 601-2, 701-9, 801-2, 901-2, 1001-2, and 1201-3, and Sections 4, 5, 8, 11, and 12 of the Surface Mined Land Conservation and Reclamation Act, ~~as amended~~. Eight (8) months after the date of such approval, the remainder of this Part shall become inapplicable to operations mining coal.

## b) Definitions

Whenever used or referred to in this Subpart Part, unless a different meaning clearly appears from the context:

"Acid forming materials" means those materials capable of producing toxic conditions when exposed.

"Act" means the Surface Mined Land Conservation and Reclamation Act (the Act), ~~as amended~~.

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"Affected land" in addition to the meaning described in the Act means an area of land from which, on or after September 17, 1971, overburden is removed for surface mining or upon which overburden or refuse is deposited. It also means any area of land utilized for drainage ditches, haulage roads, earth stockpile areas, borrow pits, slurry pond impoundments, and gob disposal areas which are constructed, created, extended, enlarged, or expanded on or after September 17, 1971, with regard to any new or pre-existing surface mining operation or related activity.

"Amendment" means any request by a holder of a surface mining permit issued by the Department to the Department to change such permit by adding or transferring acreage within a geographically distinct mining site covered by that permit. This definition shall not be construed to include an alteration or correction of an application for a permit under Section 300.20(e)(3) of this Part.

"Area coal strip mines" means those mines whose operations involve more than five (5) cuts in an unmined topography with slopes less than twenty-percent-(20%) grade.

"Boxcut" means the first open cut which results in the placing of overburden on unmined land adjacent to the initial pit and normally outside of the area to be mined.

"Consolidated materials" means materials of sufficient hardness or ability to resist weathering and to inhibit erosion or sloughing.

"Department" means Department of Natural Resources, or such department, bureau, or commission as may lawfully succeed to the powers and duties of such Department.

"Director" means the Director of the Department of Natural Resources or such officer, bureau, or commission as may lawfully succeed to the powers and duties of such Director.

"Final cut" means the last pit created in a surface mined area.

"Geographically distinct mining site" means pit or pits associated with the same processing plant, which have similar soil types, vegetation, topography and land uses.

"Gob" means that portion of refuse consisting of waste coal, rock, pyrites, slate, or other unmerchantable material of relatively large size which is separated from the mineral in the cleaning process.



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"Haulage road" means the area upon which the mined mineral is moved by truck or other vehicles from the pit to either a preparation plant, or to the nearest public road whenever a preparation plant is not used; but, in no case, shall this definition be construed to include a public road.

"Highwall" means that side of the pit adjacent to unmined land.

"Interested persons" means any individual, partnership, corporation, association, or public or private organization which has made a timely request to the Director for notice with respect to either rulemaking proceedings under Section 12 of the Act or a public hearing under Section 5(f) of the Act. This definition shall be construed to include any county board which is entitled to notice under the Act or this Part.

"Operator" means any person, firm, partnership, or corporation engaged in and controlling a surface mining operation, and includes political subdivisions and instrumentalities of the State of Illinois.

"Overburden" means all of the earth and other materials which lie above natural deposits of coal, clay, stone, sand, gravel, or other minerals, and also means such earth and other materials disturbed from their natural state in the process of surface mining.

"Permit period" means the period of time from the date of issuance of the surface mining permit until the third succeeding June 30 or until the termination date on the permit, if said date will occur prior to the third succeeding June 30.

"Pit" means a tract of land, from which overburden has been or is being removed for the purpose of surface mining.

"Reclamation" means conditioning areas affected by surface mining to achieve the purpose of the Act and rules made pursuant thereto.

"Record" means, in the case where a hearing is held, that compilation of information presented to the Department in the matter, including, but not limited to, the transcript of any hearing and any prehearing conference held, submissions and documents, the original application for permit and other pertinent materials; in the case where no hearing is held, "record" means that compilation of information presented to the Department in the matter.

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"Refuse" means all waste materials directly connected with the cleaning and preparation of minerals mined by surface mining and discarded equipment and machinery.

"Slurry" means that portion of refuse separated from the mineral in the cleaning process, consisting of fines and clays in the preparation plant effluent, and which is readily pumpable.

"Surface mining" means the mining of any minerals by removing the overburden lying above natural deposits thereof, and mining directly from the natural deposits thereby exposed, or the deposition of overburden therefrom.

"Surface mining permit" means a permit, granted by the Department, to engage in surface mining.

"Toxic conditions" means any conditions that will not support higher forms of plant or animal life in any place in connection with or as a result of the completion of surface mining.

(Source: Amended at 22 Ill. Reg. 8407, effective APR 28 1998)

SUBPART B: USE OF EXPLOSIVES IN NON-COAL MINERAL EXTRACTION OPERATIONS

Section 300.200 Scope of this Subpart

This Subpart These rules shall cover the use of explosives in non-coal mineral extraction operations pursuant to Section 6.5 of the Surface Mined Land Conservation and Reclamation Act P-A-89-267-enacted-June-23-1995. They are intended to supplement and not supersede the requirements of any other federal or Illinois statute or regulation. Inasmuch as the provisions of this Subpart these regulations contradict such other statute or regulation, that statute or regulation shall control.

(Source: Amended at 22 Ill. Reg. 8407, effective APR 28 1998)

Section 300.210 Definitions Applicable to Subpart B

"Airblast" (also known as "air overpressure") means airborne waves resulting from the detonation of explosives. Airblast may be caused by burden movement or the release of expanding gas into the air. Airblast may or may not be audible.

"Act" means the Surface Mined Land Conservation and Reclamation Act [225 ILCS 715].

IT Chicago Kent

## DEPARTMENT OF NATURAL RESOURCES

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"Authorized Representative of the Department" means an employee of the Illinois Department of Natural Resources, Office of Mines and Minerals, qualified to conduct on-site inspections of blasting operations in order to determine compliance with these regulations.

"Blast" means the detonation of explosives by an operator for a mineral extraction operation.

"Licensed Blaster" means the person authorized to oversee and approve blasting operations on a blasting site.

"Blasting Zone" means any area within the operation that is designated in writing by the operator to the Department as being the area within which blasting operations will be conducted.

"Blasting Operations" means the process of shot design, layout, drilling, loading, detonation and recordkeeping.

"Burden" means the distance from an explosives charge to the nearest free or open face at the time of detonation of each hole.

"Continuing Violation" means a violation of these rules that is ongoing and unabated at the time of inspection.

"Cube Root Scaled Distance" means the distance, in feet, from the blast to a specific location, divided by the cube root of the maximum weight of explosives, in pounds, to be detonated in any eight millisecond period.

"Decibel" means the unit of sound overpressure commonly used to measure airblast from the detonation of explosives. It is also measured in pounds per square inch (p.s.i.), and is defined in terms of the overpressure by the equation:

$$db = 20 \log P/P[0]$$

where:

dB = sound level in decibels

P = measured overpressure in p.s.i. (lbs./in.(2))

P[0] = 2.9 x 10<sup>-9</sup> p.s.i. (lbs./in.(2))

The decibel scale is logarithmic.

"Department" means the Illinois Department of Natural Resources.

"Director" means the Director of the Illinois Department of Natural Resources.

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"Earth Liners" means structures constructed from naturally occurring soil material that has been compacted to achieve a low permeability.

"Explosives" means any chemical mixture that reacts at high velocity to liberate gas and heat, causing very high pressures.

"Geomembrane" means manufactured membrane liners and barriers of low permeability used to control the migration of fluids or gases.

"Inert Waste" means any solid waste that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a contaminated leachate, as determined in accordance with 35 Ill. Adm. Code 811.202(b). Such inert wastes shall include only non-biodegradable and non-putrescible solid wastes. Inert wastes may include, but are not limited to, bricks, masonry and concrete (cured for 60 days or more).

"Landfill" means a facility permitted by the Illinois Environmental Protection Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation, or by such other methods and intervals as the Illinois Pollution Control Board may provide by regulation.

"Office of Mines and Minerals" means the subdivision of the Department of Natural Resources charged with regulating the use of explosives in non-coal mineral extraction operations pursuant to P.A. 89-26, enacted June 23, 1995.

"Operation" means the property limits of any non-coal mineral extraction operation.

"Operator" means the person having the right to enter upon the operation for the purpose of mineral extraction.

"Particle Velocity" is a measure of ground vibration which describes the velocity at which a particle of ground moves when excited by a seismic wave.

"Person" means any individual, partnership, corporation or other legal business entity.

"Protected Structure" means any dwelling, public building, school, church or commercial or institutional building. Protected structures do not include:

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Structures owned by the person conducting the blasting activity; and

Structures subject to a waiver from the Department's airblast and ground vibration requirements granted to the person conducting the blasting activity.

"Scaled Distance" means the distance, in feet, from the blast to a specified location, divided by the square root of the maximum weight of explosives, in pounds, to be detonated in any eight (8) millisecond period.

"Stemming" is inert material (usually crushed stone) that is placed above the explosives column, or vertically between columnar decks of explosives in a blast hole.

(Source: Amended at 22 Ill. Reg. 8407, effective

APR 28 1993)

## Section 300.220 Monitoring

## a) Duties of the Operator

1) When the scaled distance has a value less than ~~sixty-five~~ 65 at the closest protected structure, the operator shall make a seismographic recording and airblast recording at or near that structure.

2) When any blast is within 500 feet of a landfill, the operator shall make a seismograph recording at or near the closest part of the landfill to the blast. This requirement shall not apply if a protected structure is located between the blast and the landfill or if an alternative compliance method has been approved by the Department in accordance with Section 300.225(f).

3) When the cubed root scaled distance to the nearest protected structure has a value less than 350 and when the burden to hole depth ratio is greater than 1.0, or the top stemming height is less than ~~seventy-percent~~ (70%) of the burden dimension, the airblast produced by the blast shall be measured at or near the closest protected structure; ~~recorded, analyzed, and reported pursuant to subsections (a)(3)(A) and (a)(3)(B) below.~~ This subsection shall not apply to horizontal blast holes drilled from the floor of the pit.

4) The operator shall maintain blasting records as follows:

A) A record of each blast shall be made, retained by the operator for at least three (3) years and made available for inspection by the Department. Records of blasts conducted since the Department's last inspection, or copies of such blasting records, shall be made available at the operation for inspection by the Department. The record is to be

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completed by the end of the work day following the day in which the blast occurred, including the seismograph meter reading, if available, and shall contain the following data:

- i) Name of the operator conducting the blast.
  - ii) The location, date and time of the blast. If necessary to enforce the purposes of these regulations, the Department may require that the location of the blast be indicated as a point on a state plane coordinate system.
  - iii) Name, signature and licensure number of the licensed blaster responsible for the blast.
  - iv) Type of material blasted.
  - v) Number of holes, burden and spacing.
  - vi) Diameter and depth of holes.
  - vii) Type of explosives used.
  - viii) Total weight of explosives used.
  - ix) Weight of explosives used per hole.
  - x) Maximum weight of explosives detonated within any eight (8) millisecond period.
  - xi) Maximum number of holes or decks detonated within any eight (8) millisecond period.
  - xii) Initiation system, including number of circuits and the timer interval, if a sequential timer is used.
  - xiii) Type and length of stemming (deck and top).
  - xiv) Type of detonator and delay periods used, in milliseconds.
  - xv) Sketch of delay pattern, including decking.
  - xvi) Distance and scaled distance to the closest protected structure, using the best available information.
  - xvii) Location or address of the closest protected structure, using the best available information.
  - xviii) Distance and scaled distance to the closest part of any landfill within 500 feet of the blast.
- B) Air blast and/or ground vibration recordings, or photographic copies thereof, where required by the Department, shall be kept for a period of three (3) years following the date of the blast, and shall be available for inspection by the Department. Records of blasts conducted since the Department's last inspection, or copies of such blasting records, shall be made available at the operation for inspection by the Department. The recordings shall include the following information:
- i) Maximum airblast and/or ground vibration levels recorded.
  - ii) The specific location of the monitoring equipment, its distance from the blast and the date and time of the recording.
  - iii) Name of the person and firm making the recording.



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- iv) Name of the person and firm analyzing the recordings. The recording shall be signed and dated by the person performing the analysis.
- v) The type of instrument, sensitivity and calibration signal or certification date of annual calibration.
- C) As used herein, "seismographic recording", or "record of airblast recording", or "record" shall mean a visually inspectable cartesian representation of the time history of the particle velocity levels or airblast levels versus time. The particle velocity is shown by three traces representing mutually perpendicular components of motion. The components are oriented vertically, transversely and longitudinally to the horizontal direction from the recording location to the location of the blast. The airblast time history is represented by a single trace. The record or recording includes either an analog representation, or a written description, of the vertical scale for the particle velocity traces and the airblast trace. The units for the particle velocity traces and scale are in inches per second. The units for the airblast trace and scale are millibars, pounds per square inch, or decibels. The recording shall also include an analog or descriptive time scale. The time units are in seconds.
- b) Duties of the Department
- 1) The Department shall conduct seismographic monitoring at any operation at such times and conditions as the Department deems appropriate.
  - 2) The Department shall conduct inspections of the operation as follows:
    - A) Randomly without notice twice per year.
    - B) At such other times and conditions as the Department deems appropriate.
    - C) Less frequently than twice per year at operations where blasting is not regularly conducted.
  - 3) All Department employees conducting official business shall inform the operator or the operator's designated representative, if either is present, upon arrival to and departure from the operation.

(Source: Amended at 22 Ill. Reg. 8403, effective APR 28 1998)

## Section 300.225 Use of Explosives: Control of Adverse Effects

- a) Blasting shall be conducted to prevent injury to persons and damage to public or private property outside the blasting zone.
- b) Airblast limits
- 1) Airblast shall be controlled so that it does not exceed the

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values specified below at any protected structure, unless such structure is owned by the person who conducts the surface mining activities and is not leased to any other person. If a building owned by the person conducting surface mining activities is leased to another person, the lessee may sign a waiver relieving the operator from meeting the airblast limitations of this subsection. The waiver shall be submitted to the Department before conducting blasting operations in accordance with the terms of the waiver.

Lower frequency limit of measuring system, Hz + 3dB	Maximum level in dB
0.1 Hz or lower--flat response	134 peak
2.0 Hz or lower--flat response	133 peak
6.0 Hz or lower--flat response	129 peak

- 2) The measuring systems used shall have a flat frequency response of at least two-hundred- $\pm$  200 Hz at the upper end.
- 3) The person who conducts blasting may satisfy the provisions of this subsection (b) by meeting any of the three  $\pm$  specifications in the chart in subsection (b)(1).
- 4) To ensure compliance with the limits contained in this Section, the Department may require an airblast measurement of any or all blasts, and may specify the location of such measurements.
- c) Flyrock  
Flyrock, including blasted material traveling in the air or along the ground, but excluding dust and detonation by-products, shall not be cast beyond the blasting zone.
- d) Ground vibration limits
  - 1) In all blasting operations, except as otherwise authorized in this Section, the maximum peak particle velocity shall not exceed one  $\frac{1}{4}$  inch per second at the location of any protected structure, unless such structure is owned by the person who conducts the surface mining activities and is not leased to any other person. If a building owned by the person conducting surface mining activities is leased to another person, the lessee may sign a waiver relieving the operator from meeting the ground vibration limitations of this subsection. The waiver shall be submitted to the Department before conducting blasting operations in accordance with the terms of the waiver.
  - 2) In addition to the requirements in subsection (d)(1) above, when any blast is within 500 feet of a landfill, the blasting shall be conducted in order to control ground vibrations not to exceed five inches per second, at the closest part of the landfill. Blast monitoring shall comply with Section 300.220(a)(2). The ground vibration limit shall not apply to the following: a landfill in the process of being mined through; mining activities

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- 1) Heading of the Part: The Illinois Oil and Gas Act
- 2) Code Citation: 62 Ill. Adm. Code 240
- 3) Section Number:  

240.155	New
240.160	Amend
240.170	Repeal
240.180	Amend
240.185	New
240.190	Amend
- 4) Statutory Authority: Implemented and authorized by Section 6 of the Illinois Oil and Gas Act [225 ILCS 725/6].
- 5) Effective Date of Amendments: 4/28/98
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
- 8) Date filed in Agency Principal Office: 4/28/98
- 9) Notice(s) of Proposal published in Illinois Register: 22 Ill. Reg. 2044, January 23, 1998
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Difference(s) between proposal and final version:
  - a) In Section 240.155(b), "may" has been changed to "shall" and a comma has been added after the word "warrant"; subsection (c), the comma after the word "Section" has been deleted and in subsection (c)(1) and (2), the word "which" has been changed to "that"
  - b) In Section 240.160(a), "of the Department, or his designee" has been stricken and replaced with "of the Department, or his designee"; subsection (a)(4), "of the violation" has been stricken and replaced with "of the violation"; subsection (b)(4), "as set forth in Section 240.150(b)(2)" has been stricken and replaced with "as set forth in Section 240.150(b)(2)"; subsection (c)(2), a comma has been inserted before the word "operating" and "the" has been stricken before the words "failure"; subsection (c)(3), a comma has been added after the word "into" and deleted after the word "or" and the comma after the words "Fund" and "fluids" has been stricken and the comma after the word "spill" has been changed to a semicolon. "(Section 19.1 of the Act). has been inserted after the word "violation" and stricken. The word "Assessments" has been stricken and replaced with "assessments";

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- associated with the construction of a landfill; a landfill containing only inert waste; or a landfill or any cell of a landfill that does not contain a geomembrane or earth liner.
- e) When the scaled distance has a value less than ~~sixty-five~~ 65 at the nearest protected structure, a seismograph recording shall be made at or near that structure. To ensure compliance with the limits contained in this Section, the Department may require a seismograph recording of any or all blasts and may specify the location at which such recordings are made.
  - f) In lieu of the ground vibration limit(s) limit in subsection (d) above, the operator may submit a written request to the Department to use an alternative compliance method. Such written request must be supported by sufficient technical information, which may include, but is not necessarily limited to, documented approval of such method by agencies in other states which regulate blasting operations at coal and/or non-coal mineral extraction operations. Upon submittal by the operator of a request to use an alternative compliance method, the Department shall issue a written determination as to whether the technical information submitted provides sufficient justification for the alternative method to be used as a means of demonstrating compliance.

(Source: Amendment 22 Ill. Reg. 8403, effective 8/23/98)

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in subsection (c)(3)(A)(ii), "violation" has been stricken and replaced with "violations"; subsection (h), "Director's Decision" has been added after the word "amended" and "issue a" has been added before the word "replacement".

c) In Section 240.180(c), "for hearing submitted in accordance with subsections (a) or (b) above" has been stricken and replaced with "for hearing submitted in accordance with subsections (a) or (b) above" and "written notice mailed to the permittee or person submitting the hearing request" has been stricken and replaced with "written notice mailed to the permittee or person submitting the hearing request"; subsections (e) and (h), the parens, have been changed to brackets.

d) In Section 240.185(b), "the rules adopted thereunder" has been deleted and replaced with "this part"; parens. have been changed to brackets; "The following constitutes procedures or violations mandating the issuance of a cessation order under this subsection:" has been added after the statutory cite; the comma after "Act" "authority" "requirements" and "force" have been changed to semicolons; "operating" has been added before the word "wells", "being operated" has been deleted; "the" has been changed to "this" before the word "part" and "constitute conditions, practices or violations mandating the issuance of a cessation order under this subsection" has been deleted; subsection (c), a comma has been inserted after the word "location"; subsection (d), the Ill. Rev. State cite has been deleted and the parens. have been changed to brackets; subsection (f), "conclusion" has been changed to "conclusions"; subsection (g), the parens. have been changed to brackets.

e) In Section 240.190(a), "Section" has been changed to "Sections", "240.185 or 240.180" has been changed to "240.185 or 240.180", "[225 IICS 725/8a] has been changed to "(Section 8a of the Act); subsection (b), "[225 IICS 725/19.1]" has been changed to "(Section 19.1 of the Act); subsection (d), "Permittee" has been changed to "permittee" and subsection (f), "person" has been changed to "person's".

f) Throughout the rulemaking, ".00" has been deleted from all money amounts.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency rule currently in effect? No

14) Are there any amendments pending of this part? Yes

Section	Proposed Action	Illinois Register Citation
240.1600	Amend	22 Ill. Reg. 2495

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240.1610	Amend	22 Ill. Reg. 2495
240.1620	Amend	22 Ill. Reg. 2495
240.1625	New	22 Ill. Reg. 2495
240.1630	Amend	22 Ill. Reg. 2495
240.1635	Amend	22 Ill. Reg. 2495
240.1640	Amend	22 Ill. Reg. 2495

5) Summary and purpose of amendments: In Section 240.155, the Department proposed a new section of rules to implement Section 11 of the Illinois Oil and Gas Act which allows the Department to initiate legal action through the Attorney General against any person violating or threatening any provision of the Illinois Oil and Gas Act. The proposed rules implement procedural actions to be carried out by the Division in initiating these enforcement actions through the Attorney General's office.

In Section 240.160, the Department proposed amendments to this existing section to change the types of violations regarding the amount of fines assessed for each violation. The changed civil penalty assessment amounts are being proposed for those violations which have a significant impact on the environment. In addition, this section was amended to allow the Division to enter into settlement agreements as a result of negotiated settlements of enforcement actions.

In Section 240.170, this section has been repealed and proposed under new Section 240.185.

In Section 240.180, the Department proposed amendments to this section to clarify administrative and hearing procedures for enforcement cessation orders relating to specific events as differentiated in the Illinois Oil and Gas Act from cessation of operation orders for an operators statewide operations. This section also has been amended to require the payment of civil penalties be paid by cashiers check or money order which is necessary to ensure collection of those funds.

In Section 240.185, the Department proposed this new section as from repealed Section 240.170. The new section clarifies the administrative procedures to be in compliance with the cessation order provisions of the Illinois Oil and Gas Act.

In Section 240.190, the Department amended this existing section to clarify the hearing procedures which are to be in compliance with the hearing procedures for cessation orders contained in the Illinois Oil and Gas Act.

16) Information and question regarding this adopted amendment shall be directed to:



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Alfred L. Clayborne, Legal Counsel  
Department of Natural Resources  
524 South Second Street  
Springfield, IL 62701  
(217)782-1809

The full text of the Adopted Amendments begins on the next page:

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TITLE 62: MINING  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 240  
THE ILLINOIS OIL AND GAS  
ACT

## SUBPART A: GENERAL PROVISIONS

Section	
240.10	Definitions
240.20	Prevention of Waste (Repealed)
240.30	Jurisdiction (Repealed)
240.40	Enforcement of Act (Repealed)
240.50	Delegation of Authority (Repealed)
240.60	Right of Inspection (Repealed)
240.70	Right of Access (Repealed)
240.80	Sworn Statements (Repealed)
240.90	Additional Reports (Repealed)
240.100	When Rules Become Effective (Repealed)
240.110	Notice of Rules (Repealed)
240.120	Forms (Repealed)
240.130	Hearings--Notices (Repealed)
240.131	Unitization Hearings
240.132	Integration Hearings
240.133	Hearings to Establish Pool-Wide Drilling Units
240.140	Violations Not Requiring Formal Action
240.150	Notice of Violation
240.153	Civil Complaint
240.160	Director's Decision
240.170	Cessation Order (Repealed)
240.180	Enforcement Hearings and Enforcement Cessation Orders
240.185	Cessation of Operations
240.190	Temporary Relief Hearings
240.195	Subpoenas

## SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

Section	
240.200	Applicability
240.210	Application for Permit to Drill, Deepen or Convert to a Production Well
240.220	Contents of Application
240.230	Authority of Person Signing Application
240.240	Additional Requirements for Directional Drilling
240.245	Additional Requirements for Horizontal Drilling
240.250	Issuance of Permit to Drill
240.251	Revocation of Permit to Drill

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240.255	Conversion of a Production Well to a Water Well
240.260	Change of Well Location
240.270	Application for Approval of Enhanced Recovery Injection and Disposal Operations (Repealed)
240.280	Duration of Underground Injection Well Orders (Repealed)

## SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UIC WELLS

Section	
240.300	Applicability
240.305	Transfer of Management (Recodified)
240.310	Application for Permit to Drill, Deepen, Convert or Amend to a Class II UIC Well
240.320	Contents of Application
240.330	Authority of Person Signing Application
240.340	Proposed Well Construction and Operating Parameters
240.350	Groundwater and Potable Water Supply Information
240.360	Area of Review
240.370	Public Notice
240.380	Issuance of Permit
240.385	Conversion of a Class II Well to a Water Well
240.390	Permit Amendments
240.395	Update of Class II UIC Well Permits Issued Prior to July 1, 1987

## SUBPART D: SPACING OF WELLS

Section	
240.400	Definitions
240.410	Drilling Units
240.420	Well Location Exceptions within Drilling Unit
240.430	Drilling Unit Exceptions
240.440	More Than One Well on a Drilling Unit
240.450	Directional Drilling
240.455	Horizontal Drilling
240.460	Modified Drilling Unit
240.465	Special Drilling Unit
240.470	Establishment of Pool-Wide Drilling Units Based Upon Reservoir Characteristics

SUBPART E: WELL DRILLING,  
COMPLETION AND WORKOVER REQUIREMENTS

Section	
240.500	Definitions
240.510	Department Permit Posted
240.520	Drilling Fluid Handling and Storage
240.525	Saltwater or Oil Based Drilling Fluid Handling and Storage
240.530	Completion Fluid and Completion Fluid Waste Handling and Storage

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240.540	Drilling and Completion Pit Restoration
240.550	Disposal of General Oilfield Wastes and Other Wastes
	SUBPART F: WELL CONSTRUCTION, OPERATING AND REPORTING REQUIREMENTS FOR PRODUCTION WELLS OPERATING REQUIREMENTS

Section	
240.600	Applicability
240.605	Drilled Out Plugged Hole (DOPH) Notification
240.610	Construction Requirements for Production Wells
240.620	Remedial Cementing of Leaking Wells
240.630	Operating Requirements
240.640	Reporting Requirements
240.650	Confidentiality of Well Data
240.655	Mechanical Integrity Testing for Class II Injection Wells (Repealed)
240.660	Monitoring and Reporting Requirements for Enhanced Recovery Injection and Disposal Wells (Repealed)
240.670	Avoidable Waste of Gas (Repealed)
240.680	Escape of Unburned Gas Prohibited (Repealed)

SUBPART G: WELL CONSTRUCTION, OPERATING  
AND REPORTING REQUIREMENTS FOR CLASS II UIC WELLS

Section	
240.700	Applicability and Definitions
240.710	Surface and Production Casing Requirements for Newly Drilled Class II UIC Wells Drilled After the Effective Date of this Section
240.720	Surface and Production Casing Requirements for Conversion to Class II UIC Wells
240.730	Surface and Production Casing Requirements for Existing Class II UIC Wells
240.740	Other Construction Requirements for Class II UIC Wells
240.750	Operating Requirements for Class II UIC Wells
240.760	Establishment of Internal Mechanical Integrity for Class II UIC Wells
240.770	Establishment of External Mechanical Integrity for Class II UIC Wells
240.780	Reporting Requirements for Class II UIC Wells
240.790	Confidentiality of Well Data
240.795	Commercial Saltwater Disposal Well

## SUBPART H: LEASE OPERATING REQUIREMENTS

Section	
240.800	Definitions
240.805	Lease and Well Identification
240.810	Tanks and Containment Dikes

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240.820 Flowlines  
 240.830 Power Lines  
 240.840 Equipment Storage  
 240.850 Concrete Storage Structures  
 240.860 Pits  
 240.861 Existing Pit Exemption For Continued Production Use  
 240.862 Existing Pit Exemption For Alternative Use  
 240.870 Leaking Unpermitted Drill Hole  
 240.880 Spill Notification  
 240.890 Crude Oil Spill Clean-Up Requirements  
 240.891 Crude Oil Spill Waste Disposal and Remediation  
 240.895 Produced Water Spill Clean-Up Requirements

## SUBPART I: LIQUID OILFIELD WASTE HANDLING AND DISPOSAL

Section  
 240.900 Definitions  
 240.905 Application for Permit to Operate a Liquid Oilfield Waste Transportation System  
 240.906 Application for a Liquid Oilfield Waste Transportation Vehicle Permit

240.910 Inspection of Vehicles (Tanks)  
 240.920 Issuance of Liquid Oilfield Waste Transportation System and Vehicle Permits  
 240.925 Liquid Oilfield Waste Recordkeeping Requirements  
 240.926 Liquid Oilfield Waste Transportation System and Vehicle Operating Requirements  
 240.930 Produced Water  
 240.940 Crude Oil Bottom Sediments  
 240.950 Crude Oil Spill Waste Disposal (Repealed)  
 240.960 Oil Field Brine Hauling Permit Conditions (Repealed)  
 240.970 Inspection of Vehicles (Repealed)  
 240.980 Transfer of Permits (Repealed)  
 240.985 Revocation of Oil Field Brine Hauling Permit (Repealed)  
 240.990 Records and Reporting Requirements (Repealed)  
 240.995 Bonds--Blanket Surety Bond (Repealed)

## SUBPART J: VACUUM

Section  
 240.1000 Definitions  
 240.1005 Applicability  
 240.1010 Application for Vacuum Permit  
 240.1020 Contents of Application  
 240.1030 Authority of Person Signing Application  
 240.1040 Notice and Hearing  
 240.1050 Issuance of Permit

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## 240.1060 Permit Amendments

## SUBPART K: PLUGGING OF WELLS

Section  
 240.1105 Plugging of Non-Productive Wells (Repealed)  
 240.1110 Definitions  
 240.1120 Plugging of Uncased Wells  
 240.1130 Plugging or Temporary Abandonment of Inactive Wells and Certain Class II UIC Wells  
 240.1131 Extension of Future Use Status  
 240.1140 General Plugging Procedures and Requirements  
 240.1150 Specific Plugging Procedures  
 240.1151 Procedures for Plugging Coal Seams  
 240.1160 Plugging Fluid Handling and Storage  
 240.1170 Plugging Fluid Waste Disposal and Well Site Restoration  
 240.1180 Lease Restoration  
 240.1181 Lease Restoration Requirements  
 240.1190 Filing Plugging Report

## SUBPART L: REQUIREMENTS FOR OTHER TYPES OF WELLS

Section  
 240.1200 Applicability  
 240.1205 Application for Permit to Drill a Test Well or Drill Hole  
 240.1210 Contents of Application for Permit to Drill or Convert to an Observation, Gas Storage Well or Service Well (Repealed)  
 240.1220 Contents of Application for Coal Test Hole, Mineral Test Hole, Structure Test Hole, or Coal or Mineral Groundwater Monitoring Well  
 240.1230 Authority of Person Signing Application  
 240.1240 Issuance of Permit  
 240.1250 When Wells Shall Be Plugged and Department Notification  
 240.1260 Plugging and Restoration Requirements  
 240.1270 Confidentiality  
 240.1280 Converting to Water Well

## SUBPART M: PROTECTION OF WORKABLE COAL BEDS

Section  
 240.1300 Introduction  
 240.1305 Permit Requirements in Mine Areas  
 240.1310 Workable Coal Beds Defined  
 240.1320 Mining Board may Determine Presence of Coal Seams  
 240.1330 Well Locations Prohibited  
 240.1340 Notice to Mining Board  
 240.1350 Casing and Protective Work  
 240.1360 Operational Requirements Over Active Mine  
 240.1370 Inspection of Vehicles (Recodified)



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240.1380 Transfer of Permits (Recodified)  
 240.1385 Revocation of Oil Field Brine Hauling Permit (Recodified)  
 240.1390 Records and Reporting Requirements (Recodified)  
 240.1395 Bonds--Blanket Surety Bond (Recodified)

## SUBPART N: TRANSFER OF PERMIT

Section  
 240.1400 Definitions  
 240.1405 Transfer of Management (Repealed)  
 240.1410 Applicability  
 240.1420 When Notification to be Made  
 240.1430 Responsibilities of Current Permittee  
 240.1440 Responsibilities of New Permittee  
 240.1450 Authority of Persons Signing Notification  
 240.1460 Other Conditions for and Effect of Transfer  
 240.1470 Revocation of Permit to Transfer  
 240.1480 Administrative Record Correction Transfer  
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## SUBPART O: BONDS

Section  
 240.1500 When Required, Amount and When Released  
 240.1510 Definitions  
 240.1520 Bond Requirements  
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## SUBPART P: WELL PLUGGING AND RESTORATION PROGRAM

Section  
 240.1600 Definitions  
 240.1610 Plugging Leaking or Abandoned Wells  
 240.1620 Plugging Orphaned Wells  
 240.1630 Emergency Well Plugging and Emergency Remedial Work  
 240.1635 Emergency Projects  
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## SUBPART Q: ANNUAL WELL FEES

Section  
 240.1700 Fee Liability  
 240.1705 Amount of Assessment  
 240.1710 Annual Permittee Reporting  
 240.1720 When Fees are Due  
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SUBPART R: REQUIREMENTS IN UNDERGROUND GAS STORAGE FIELDS  
 AND FOR GAS STORAGE AND OBSERVATION WELLS

Section  
 240.1800 Applicability  
 240.1805 Definitions  
 240.1810 Submission of Underground Gas Storage Field Map  
 240.1820 Permit Requests in a Underground Gas Storage Field  
 240.1830 Application for Permit to Drill or Convert Wells  
 240.1835 Content of Application for Permit to Drill or Convert to an Observation or Gas Storage Well  
 240.1840 Authority of Person Signing Application  
 240.1850 Issuance of Permit  
 240.1852 Gas Storage and Observation Well, Construction, Operating and Reporting Requirements  
 240.1855 Well Drilling Completion and Workover Requirements  
 240.1860 Storage Field Operating Requirements  
 240.1865 Liquid Oilfield Waste Disposal  
 240.1870 Plugging of Gas Storage and Observation Wells

## SUBPART S: REQUIREMENTS FOR SERVICE WELLS

Section  
 240.1900 Applicability  
 240.1905 Application for Permit to Drill or Convert to Other Types of Wells or Drill Holes  
 240.1910 Contents of Application for Permit to Drill or Convert to a Service Well  
 240.1920 Authority of Person Signing Application  
 240.1930 Issuance of Permit  
 240.1940 When Wells Shall Be Plugged and Department Notification  
 240.1950 Plugging and Restoration Requirements  
 240.1960 Converting to Water Well

AUTHORITY: Implementing and authorized by Sections 6 and 8a of the Illinois Oil and Gas Act [225 ILCS 725/6 and 8a].

SOURCE: Adopted November 7, 1951; emergency amendment at 6 Ill. Reg. 903, effective January 15, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5542, effective April 19, 1982; codified at 8 Ill. Reg. 2475; amended at 11 Ill. Reg. 2818, effective January 27, 1987; amended at 14 Ill. Reg. 2317, effective January 25, 1990; recodified at 14 Ill. Reg. 3053; amended at 14 Ill. Reg. 13620, effective August 8, 1990; amended at 14 Ill. Reg. 20427, effective January 1, 1991; amended at 15 Ill. Reg. 2706, effective January 31, 1991; recodified at 15 Ill. Reg. 8566; recodified at 15 Ill. Reg. 11641; emergency amendment at 15 Ill. Reg. 14679, effective September 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 15493, effective October 10, 1991; amended at 16 Ill. Reg. 2576, effective February 3, 1992; amended at 16 Ill. Reg. 15513,

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effective September 29, 1992; expedited correction at 16 Ill. Reg. 18859, effective September 29, 1992; emergency amendment at 17 Ill. Reg. 1195, effective January 12, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2217, effective February 8, 1993; amended at 17 Ill. Reg. 14097, effective August 24, 1993; amended at 17 Ill. Reg. 19923, effective November 8, 1993; amended at 18 Ill. Reg. 8061, effective May 13, 1994; emergency amendment at 18 Ill. Reg. 10380, effective June 21, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16361, effective November 18, 1994; amended at 19 Ill. Reg. 10981, effective July 14, 1995; amended at 21 Ill. Reg. 7164, effective June 3, 1997; emergency amendment at 22 Ill. Reg. 988, effective December 22, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 8422, effective APR 28 1998.

In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

## SUBPART A: GENERAL PROVISIONS

## Section 240.155 Civil Complaint

- a) The Department may elect to file an action with the Attorney General and not issue a notice of violation pursuant to Section 240.150.
- b) In accordance with Section 11 of the Act, the Department through the Attorney General shall bring an action in the name of the People of the State of Illinois against such person in the circuit court of the county wherein any part of the land or any activity which is the subject matter of such action is located, or a final administrative order was entered, to restrain such person from continuing such violation or from carrying out the threat of violation. In such action the Department, in the name of the People of the State of Illinois, may obtain such injunctions, prohibitory and mandatory, including temporary restraining orders and preliminary injunctions, or other enforcement orders as the facts may warrant, including but not limited to:
- 1) an assessment of a \$1,000 civil penalty per documented event in the previous 2 years; and/or
  - 2) submission of a bond in accordance with Subpart O; and/or
  - 3) denial of new drilling and/or operating permits.
- c) The provisions of this Section apply to the following:
- 1) violations of any requirement of the Act that the Department determines creates a substantial and imminent danger to the health or safety of the public; or
  - 2) violations of the Act that pose an imminent danger of substantial environmental harm or cause environmental damage to property or contamination of surface or ground waters of the State as a result of improper disposal, release, or discharge of produced fluid; or
  - 3) if the permittee has shown a pattern of documented events

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involving improper disposal, release, or discharge of produced fluids within the previous 2 years from the date of the most recent event.

(Source: Added at 22 Ill. Reg. 8422, effective APR 28 1998)

## Section 240.160 Director's Decision

- a) Upon receipt of a notice of violation, the Director of the Department, or his designee, ~~of the Department, or his designee, shall conduct an investigation and may affirm, vacate or modify the notice of violation.~~ In determining whether to take action in addition to remedial action necessary to abate a violation the Director shall consider:
- 1) the person's or permittee's history of previous violations, including violations at other locations and under other permits;
  - A) A violation shall not be counted if the notice or order is the subject of pending administrative review by the Department under Section 240.180 or if the time to request such review has not expired, and thereafter it shall be counted for only two years after the date of the Department's final administrative decision or a final judicial decision affirming the Department's decision;
  - B) No violation for which the notice or order has been vacated shall be counted;
  - 2) the seriousness of the violation, including any irreparable harm to the environment or damage to property;
  - 3) the degree of culpability of the person or permittee; and
  - 4) the existence of any additional conditions or factors in aggravation or mitigation of the violation, ~~of the violation,~~ including information provided by the person or permittee.
- b) Modification of the notice of violation may include:
- 1) any different or additional remedial actions necessary to abate the violation, as set forth in Section 240.150(b)(2), ~~7--as-set forth--in--Section--240--150(b)(2),~~ and the time within which the violation must be abated;
  - 2) the assessment of civil penalties not to exceed \$1,000 a day for each and every act of violation;
  - 3) probationary or permanent modification or conditions on the permit which may include special monitoring or reporting requirements; and
  - 4) revocation of the permit. (Section 8a of the Act)
- c) The Director shall determine whether or not to assess civil penalties based on the factors set forth in subsection (a) above. If a penalty is assessed by the Department, the penalty shall be computed as follows:
- 1) Administrative violations, including, but not limited to, the

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failure to file the reporting, permitting and bond transfer forms required by the Department, the failure to submit information required by the Department pursuant to well file reviews, shall be assessed on an permittee-specific basis. The Department may assess up to \$250 for an administrative violation as follows:

- A) History of Violations:
- i) No previous violation of the same rule: add \$25.
  - ii) One previous violation of the same rule: add \$50.
  - iii) Two previous violations of the same rule: add \$100.
  - iv) Three or more previous violations of the same rule: add \$150.

## B) Permittee's Actions:

- i) If the permittee was previously notified of the violation using a routine inspection report (Form OG-22) in accordance with Section 240.140 or correspondence from the Department and failed to comply: add \$100.
- ii) If the permittee abated the violation within the specified time frame: subtract \$200.
- iii) If the permittee either substantially abated the violation within the specified time frame or, if all corrective actions were not completed yet the permittee requested and received an extension of the abatement deadline: subtract \$100.

- 2) Operating violations, including, but not limited to, operating a well required to be permitted under the Act without first obtaining a permit from the Department, operating a well required to be permitted under the Act without first obtaining the Department's transfer of operating authority, operating a well in violation of Department spacing requirements, pressure on the annulus, the failure to maintain the well and flow line in a leak-free condition, the failure to maintain lined-pits, the failure to configure the wellhead for the inspection of the annulus, the failure to comply with specified permit conditions, the failure to report or clean-up a spill, and the failure to maintain containment dikes, failure to maintain required performance bond in force for the wells under permit and failure to pay annual well fees, shall be assessed on a permittee-specific basis. Multiple incidents of the same violation against a permittee on the same occasion shall not be considered separate violations. The Department may assess up to \$500 for an operating violation as follows:

- A) History of Violations:
- i) No previous violation of the same rule: add \$50.
  - ii) One previous violation of the same rule: add \$100.
  - iii) Two or more previous violations of the same rule: add \$150.

## B) Seriousness:

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- i) If the violation had a low degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, ground water, livestock or wildlife: add \$50; or, if the violation had a high degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, ground water, livestock or wildlife: add \$100; or, if the violation caused environmental damage to soil and/or land surface, vegetation or crops, surface water, ground water, livestock or wildlife: add \$200.
- ii) If the violation created a hazard to the safety of any person, such as the emission of hydrogen sulfide gas: add \$500 \$200.

## C) Permittee's Actions:

- i) If the permittee was previously notified of the violation using a routine inspection report (Form OG-22) in accordance with Section 240.140 or correspondence from the Department and failed to comply: add \$100.
- ii) If the violation occurred as a result of the permittee's lack of reasonable care: add \$50; or, if the violation occurred as a result of the permittee's deliberate conduct: add \$200.
- iii) If the permittee abated the violation within the specified time frame: subtract \$250.
- iv) If the permittee either substantially abated the violation within the specified time frame, or, if all corrective actions were not completed yet the permittee requested and received an extension of the abatement deadline: subtract \$100.

- 3) Operating Brilling-or-operating-a-well-required-to-be-permitted under-the-Act-without-first-obtaining-a-permit-from-the-Department,-operating-a-well-required-to-be-permitted-under-the-Act-without-first-obtaining-the-Department's-transfer-of-operating-authority,-or---operating an annular or casing injection/disposal well,-or---operating-a-well-in-violation-of Department-spacing-requirements,-or operating wells by a permittee for whom wells have been placed into, or funds have been expended from the PRF Fund, failure to clean-up a crude oil or produced water spill; or the improper disposal or discharge of produced fluids or-if-the-Department-determines-that-any condition-or-practice-exists,-or-that-any-person-or-permittee-is in-violation-of-any requirement-of-the-Act-or-this-part-or-any permit-condition,-which-condition,-practice-or-violation-creates an-imminent-danger-to-the-health-or-safety-of-the-public,-or-an imminent-danger-of-significant-environmental-harm-or-significant damage-to-property, shall result in an initial the assessment of



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- A) extend the amount of time provided to complete remedial actions necessary to abate the violations set forth in the Director's Decision; or
- B) reduce the civil penalty assessed in the Director's Decision; or
- C) allow new permits or the transfer of existing permits to be issued during the term of the settlement agreement.
- 2) An Amended Director's Decision shall be issued to:
- A) extend the amount of time provided to complete remedial action necessary to abate the violation set forth in the Director's Decision; or
- B) reduce the civil penalty assessed in the Director's Decision.
- 3) A replacement Director's Decision shall be issued to correct an administrative error contained in the Director's Decision or the Notice of Violation.
- 4) The permittee shall have no right to hearing associated with the issuance of an amended or replacement Director's Decision.
- i) If the Director's decision includes the assessment of a civil penalty, and the person or permittee named in the Director's decision does not request a hearing in accordance with Section 240.180 to contest the amount of the penalty, the amount assessed shall be paid to the Department in full within 30 days after service of the Director's decision.
- j) All civil penalties assessed and paid to the Department shall be deposited in the Underground Resources Conservation Enforcement Fund. (Section 8a of the Act)
- (Source: Amended APR 28 1998 22 Ill. Reg. 8422 = , effective )

Section 240.170 Cessation Order (Repealed)

- a) The Department may issue orders requiring the cessation of operations including the plugging of a well, for either of the following reasons:
- 1) If at the expiration of the period of time originally fixed in the Director's decision or at the expiration of any subsequent extension of time granted by the Department, the Department finds that the violation has not been abated; it may immediately order the cessation of operations or the portions thereof relevant to the violation.
- 2) If the Department determines that any condition or practice exists or that any person or permittee is in violation of any requirement of the Act or the rules adopted thereunder or any permit condition, which condition, practice or violation creates an imminent danger to the health or safety of the public or an imminent danger of significant environmental harm or significant

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- up to a \$1,000 penalty for each and every such violation. (Section 19-1 of the Act). Additional assessments Assessments for these violations may be computed as follows:
- A) History of Violations:
- 1) No previous violation of the same rule--add \$100--
- 2) One or more previous violations violation of the same rule in accordance with subsection (a)(1)(A) of this Section: add \$100 per violation \$500.
- B) Seriousness:
- i) If the violation caused environmental damage to surface water, ground water or wildlife: add \$200.
- ii) If the violation created a hazard to the safety of any person, such as the emission of hydrogen sulfide gas: add \$500 \$200.
- C) Permittee's Action:
- 1) If the violation occurred as a result of the permittee's lack of reasonable care: add \$100; or, if the violation occurred as a result of the permittee's deliberate conduct: add \$500.
- 2) If the permittee abated the violation within the specified time frame--subtract \$250--
- 3) If all corrective actions were not completed, yet the permittee requested and received an extension of the abatement deadline--subtract \$100--
- d) Any responsible person who willfully or knowingly authorized, ordered, or carried out any violation cited in the Director's decision shall be subject, after notice, to the same actions, including civil penalties, which may be imposed on the person or permittee under this Section. (Section 8a of the Act)
- e) The Director or his designee shall serve the person or permittee with his decision at the conclusion of his investigation. The Director's decision shall provide that the person or permittee has the right to request a hearing in accordance with Section 240.180. The Director's decision affirming, vacating or modifying the notice of violation shall be served in accordance with Section 8a of the Act.
- f) A Director's decision not appealed in accordance with Section 240.180 within 30 days after service shall become a final administrative decision of the Department, pursuant to Section 10 of the Act. The filing of a request for hearing under Section 240.180 shall not operate as a stay of the Director's decision.
- g) The permittee may, within 30 days from the date of service of the Director's Decision, submit to the Department, in writing, any mitigating factors which the permittee believes to be relevant to the violation cited in the Director's Decision.
- h) Upon further investigation, the Director of the Department, or his designee, may enter into a settlement agreement, issue an amended Director's Decision, or issue a replacement Director's Decision.
- i) A settlement agreement shall be issued to:

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- ~~damage-to-property-any--authorized-employee-or--agent--of--the Department-may-order-the-immediate-cessation-of-operations- (111-Rev--Stat--1991--ch--96-1/2--par--5426)-(225-16S-725/19-11) Barring-or-operating-without-a-permit-from-the-Department-a-well required-to-be-permitted-under-the-Act--without-first-obtaining required-to-be-permitted-under-the-Act--without-first-obtaining the-Department's--transfer-of-operating-authority-operating-an annular-or-casing-injection/disposal-well-operating-a-well-in violation--of--the--Department's--spacing-requirements--operating wells-without-paying-annual-well-fees-or-operating-wells-without maintaining--the-required-amount-of-performance-bond-in-force-or wells-being-operated-by-a-permittee--for-whom-funds-have--been expended--from--the--PRP-fund-in-accordance-with-Subpart-Q-of-this Party-constitute-conditions-practices--or--violations--mandating the-issuance-of-a-cessation-order-under-this-subsection~~
- b) ~~if--a-responsible-party-cannot-be-readily-located-in-the-judgment-of the-employee-or-agent-issuing-the-cessation-order--the-employee-or agent-may-take-any-action-he-deems-necessary-to-cause-a-cessation-of operations-and-abatement-of-any-violation-observed- (111-Rev--Stat-1991-ch--96-1/2--par--5426)-(225-16S-725/19-11)~~
- e) ~~the-cessation-order-shall-be-served-by-personal-delivery-to-the-person or-permittee-named-in-the-order-or-by-mailing-it-certified-mail; return-receipt-requested-to-the-last-known-address-of-the-person-or permittee--as--soon--as--is-practicably-possible-but-in-no-event-later than-5-days-after-its-issuance- (111-Rev--Stat--1991--ch--96-1/2--par--5426)-(225-16S-725/19-11)~~
- d) ~~The-cessation-order-shall-provide-that-the-person-or-permittee-named in-the-order-has-the-right-to-request-a-hearing-in-accordance-with Section-240.180--The-cessation-order-shall-be-considered-served-when personally-delivered-to-the-person-or-permittee-named-in-the-order--or when--the-cessation-order--is-mailed-certified-mail--return-receipt requested-to-the-person-or-permittee-at-his-last-known-address~~
- e) ~~A-cessation-order-issued-under-this-Section-shall-continue-in-effect until--modified--vacated--or-terminated-by-the-Department- (111-Rev-Stat-1991-ch--96-1/2--par--5413)-(225-16S-725/8a)-The-filing-of-a request-for-a-hearing-under-Section-240.180-shall-not-operate-as-a stay-of-the-cessation-order--The-cessation-order-may-be-stayed-by-the grant-of-temporary-relief-in-accordance-with-Section-240.198~~
- f) ~~A-cessation-order-not-appealed-in-accordance-with-Section-240.180 within-30-days-of-service-shall-become-a-final-administrative-decision of-the-Department-pursuant-to-Section-10-of-the-Act~~

(Source: APR 28 1998 at 22 Ill. Reg. 8422 effective

## Section 240.180 Enforcement Hearings and Enforcement Cessation Orders

- a) A person or permittee shall have 30 days from the date of service of

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- the Director's decision ~~ex-of-the-cessation-order~~ to request a hearing. (Section 8a of the Act) Except as provided in subsection (b) below, a person or permittee seeking to contest any Director's decision in which a civil penalty has been assessed shall submit the assessed amount to the Department, by cashiers check or money order, together with a timely request for hearing. The assessed amount shall be deposited by the Department pending the outcome of the hearing. The assessed amount shall be refunded to the person or permittee at the conclusion of the hearing if the Department does not prevail. All requests for hearing shall be mailed or delivered to the Department's office located in Springfield, Illinois.
- b) If a civil penalty assessment is imposed against a person pursuant to Section 240.160(d), such person will not be required to prepay the penalty in order to contest either the amount of the penalty or the fact of the violation.
- c) Upon receipt of a request for hearing submitted in accordance with subsection (a) or (b), ~~for-hearing-submitted-in-accordance-with subsections-(a)-or-(b), the Department shall provide an opportunity for a formal hearing upon not less than 5 days written notice mailed to the permittee or person submitting the hearing request. Written notice-mailed-to-the-permittee-or-person-submitting-the-hearing request- (Section 8a of the Act) The hearing shall be conducted by an impartial hearing officer not employed by the Department and shall be conducted in accordance with the following procedures:~~
- 1) A pre-hearing conference:
    - A) shall be scheduled within 30 days after the request for hearing:
      - i) to define the factual and legal issues to be litigated at the administrative hearing;
      - ii) to determine the timing and scope of discovery available to the parties;
      - iii) to set a date for the parties to exchange all documents they intend to introduce into evidence during the hearing, a list of all witnesses the parties intend to have testify and a summary of the testimony of each such witness;
      - iv) to schedule a date for the administrative hearing; and
      - v) to arrive at an equitable settlement of the hearing request, if possible.
    - B) pre-hearing conferences under this Section may be conducted via telephone conference if such procedure is acceptable to all parties to the hearing. In the event that a telephone conference is not acceptable to all parties, the pre-hearing conference shall be conducted the place designated by the hearing officer.
    - C) Either party may file motions for default judgment, motions for summary judgment, motions for protective orders and motions for orders compelling discovery. The Department's



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hearing officer shall render an order granting or denying such motions filed within 15 days after service. Any order granting a motion for default judgment or a motion for summary judgment shall constitute the Department's final administrative decision as to the Director's Decision or cessation order being contested.

- 2) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice of violation or cessation order was issued will be deemed to have waived all right to further review of the violation or civil penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect. All settlement agreements shall be executed by the hearing officer and shall constitute the Department's final administrative decision as to the Director's Decision or cessation order being contested.
- 3) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10]. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Section at a site located closer than Springfield, Illinois, to the production and/or injection/disposal well identified in the Director's decision or cessation order being contested if facilities are available and convenient satisfactory to the Department.
- 4) At the hearing the Department shall have the burden of proving the facts of the violation alleged in the notice of violation or ~~cessation order~~ at issue. The amount of any civil penalty assessed shall be presumed to be proper; however, the operator may offer evidence to rebut this presumption. The standard of proof shall be a preponderance of the evidence. The person or permittee shall have the right to challenge the hearing officer if the person or permittee believes the hearing officer is prejudiced against him or has a conflict of interest. If the hearing officer disqualifies himself, the Director shall designate a new hearing officer. The hearing officer shall conduct the hearing, hear the evidence and at the conclusion of the hearing render recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case.
- 5) The Director shall review the administrative record in--a ~~contested case~~ in conjunction with the hearing officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. The Director shall then issue the Department's final administrative decision affirming, vacating or modifying the hearing officer's decision.   
d) The person or permittee's failure to request a hearing in accordance

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with subsection (a) shall constitute a waiver of all legal rights to contest the Director's decision ~~or the cessation order~~, including the amount of any civil penalty assessed. Within 30 days of the close of the hearing record or expiration of the time to request a hearing, the Department shall issue a final administrative decision, pursuant to Section 10 of the Act. (Section 8a of the Act)

- e) If, at the expiration of the period of time originally fixed in the Director's decision or at the expiration of any subsequent extension of time granted by the Department, the Department finds that the violation has not been abated, it may immediately order the cessation of operations or the portions thereof relevant to the violations. [225 ILCS 725/8a]

- f) Notice of the cessation order shall be served in accordance with Section 240.185(d). The notice shall contain a scheduled hearing date which shall be within 5 days after the issuance of the cessation order to determine whether the person or permittee has complied with any final administrative order upon which the cessation order is based. The hearing shall be conducted by a hearing officer, designate by the Department, and held in the Department office in Springfield, Illinois.

- g) The cessation order shall provide that the person or permittee named in the order has the right to request a temporary relief hearing within 14 days from the date of issuance of the cessation order in accordance with Section 240.190.

- h) A cessation order issued under this Section shall continue in effect until modified, vacated, or terminated by the Department. [225 ILCS 725/8a] The filing of a request for temporary relief under Section 240.190 shall not operate as a stay of the cessation order. The cessation order may be stayed by the grant of temporary relief in accordance with Section 240.190.

- i) A cessation order not subject to temporary relief in accordance with subsection (g) above shall become a final administrative decision of the Department pursuant to Section 10 of the Act.

(Source: Amended at 22 Ill. Reg. 8422, effective APR 23 1998)

## Section 240.185 Cessation of Operations

- a) The Department may issue orders requiring the cessation of operations, without issuing a notice of violation in accordance with Section 240.160.
- b) If the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act or this Part or any permit condition, which condition, practice or violation creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property, any authorized employee or agent of



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the Department may order the immediate cessation of operations. [225 ILCS 725/19.1] The following constitute procedures or violations mandating the issuance of a cessation order under this subsection: drilling or operating, without a permit from the Department, a well required to be permitted under the Act; operating a well required to be permitted under the Act without first obtaining the Department's transfer of operating authority; operating an annular or casing injection/disposal well; operating a well in violation of the Department's spacing requirements; operating wells without paying annual well fees; or operating wells without maintaining the required amount of performance bond in force; or operating wells by a permittee for whom funds have been expended from the PRF Fund in accordance with Subpart Q of this Part.

c) If a responsible party cannot be readily located, in the judgment of the employee or agent issuing the cessation order, the employee or agent may take any action he deems necessary to cause a cessation of operations and abatement of any violation observed. [225 ILCS 725/19.1]

d) The cessation order shall be served by personal delivery to the person or permittee named in the order or by mailing it certified mail, return receipt requested, to the last known address of the person or permittee as soon as is practicably possible but in no event later than 5 days after its issuance. [225 ILCS 725/19.1]

e) The cessation order shall provide that the person or permittee named in the order has the right to request a temporary relief hearing within 14 days from the date of issuance of the cessation order in accordance with Section 240.190. The cessation order shall be considered served when personally delivered to the person or permittee named in the order or when the cessation order is mailed certified mail, return receipt requested, to the person or permittee at his last known address.

f) At the hearing, the Department shall have the burden of proving the facts of the violation alleged in the cessation order. The standard of proof shall be a preponderance of the evidence. The impartial hearing officer shall conduct the hearing, hear the evidence and at the conclusion of the hearing render findings of fact, conclusions of law and issue the final administrative decision of the Department.

g) A cessation order issued under this Section shall continue in effect until modified, vacated, or terminated by the Department. [225 ILCS 725/8a] The filing of a request for temporary relief under Section 240.190 shall not operate as a stay of the cessation order. The cessation order may be stayed by the grant of temporary relief in accordance with Section 240.190.

h) A cessation order not subject to temporary relief in accordance with subsection (e) above shall become a final administrative decision of the Department, pursuant to Section 10 of the Act.

(Source: Added at 22 Ill. Reg. 8422, effective

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## Section 240.190 Temporary Relief Hearings

a) Pending the holding of a hearing or entry of a final administrative decision in accordance with Sections 240.185(e) and 240.180(g) relating to a cessation order issued under Section 240.185 or 240.180, the person or permittee affected by the Department's action may file a written request for temporary relief from the cessation order, together with a detailed statement giving reasons for granting such relief. (Section 8a of the Act) The person or permittee shall serve the request for temporary relief within 14 days after service of the cessation order.

b) The Department shall commence a hearing within 5 working days after receipt of a timely request for temporary relief and may grant such relief, under such conditions as it may prescribe, if the person or permittee requesting temporary relief shows a substantial likelihood that the findings of the Department will be favorable to him and such relief will not adversely affect the health or safety of the public or cause significant environmental harm or significant damage to property. (Section 19.1 of the Act)

c) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois.

d) At the hearing the permittee shall have the burden of proving that temporary relief from the cessation order will not adversely affect the health or safety of the public or cause environmental harm or significant damage to property. The hearing officer shall conduct the hearing, hear the evidence and at the conclusion of the hearing render findings of fact, conclusions of law and the disposition of the case.

e) At the Department's hearing officer shall issue a final administrative decision granting or denying temporary relief from the cessation order within 7 days after the close of the administrative record, pursuant to Section 10 of the Act.

f) The person's or permittee's failure to request a hearing in accordance with subsection (a) shall constitute a waiver of all legal rights to contest the cessation order.

(Source: Amended at 22 Ill. Reg. 8422, effective

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

- 1) Heading of the Part: Dietetic and Nutrition Services Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1245
- 3) Section Numbers:  
1245.10  
1245.160  
1245.220  
1245.260  
1245.300  
1245.310  
1245.330
- Adopted Action:  
Amendment  
New Section  
Amendment  
New Section  
Amendment  
New Section  
New Section
- 4) Statutory Authority: Dietetic and Nutrition Services Practice Act [225 ILCS 30]
- 5) Effective Date of Amendments: May 4, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: May 4, 1998
- 9) Date Notice of Proposal Published in Illinois Register: October 3, 1997, at 21 Ill. Reg. 13249
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Difference(s) between proposal and final version: For the October 31, 1999 renewal, licensees will be required to complete 15 hours of continuing education (CE), rather than 30 hours. All subsequent renewals will require the 30 hours.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect? Yes
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Various changes were necessitated after the implementation of the Act as the Board has recognized the need for further definition and clarification. In addition, provisions are being added for continuing education, professional conduct standards, and for restoration of licenses.

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

- 16) Information and questions regarding this amended part shall be directed to:

Department of Professional Regulation  
Attention: Jean Courtney  
320 West Washington, 3rd Floor  
Springfield, IL 62786  
217/785-0813  
Fax #: 217/782-7645

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION  
SUBCHAPTER B: PROFESSIONS AND OCCUPATIONSPART 1245  
DIETETIC AND NUTRITION SERVICES PRACTICE ACT

## SUBPART A: DEFINITIONS

Section  
1245.10

Definitions

## SUBPART B: DIETITIAN

Section  
1245.100

Application for Licensure as a Dietitian Under Section 60(a) of the Act (Grandfather)

1245.110 Application for Examination/Licensure

1245.120 Examination

1245.130 Approved Programs in Dietetics

1245.140 Experience

1245.150 Endorsement

1245.160 Restoration

## SUBPART C: NUTRITION COUNSELOR

Section  
1245.200

Application for Licensure as a Nutrition Counselor Under Section 60(b) of the Act (Grandfather)

1245.210 Application for Examination/Licensure

1245.220 Examination

1245.230 Approved Programs of Nutrition Counselors

1245.240 Experience

1245.250 Endorsement

1245.260 Restoration

## SUBPART D: GENERAL

Section

1245.300 Renewal

1245.310 Continuing Education

1245.320 Inactive Status

1245.330 Unprofessional Conduct

1245.340 Granting Variances

AUTHORITY: Implementing the Dietetic and Nutrition Services Practice Act [225 ILCS 30] and authorized by Section 60(7) of the Civil Administrative Code of

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 19 Ill. Reg. 7598, effective May 26, 1995; expedited correction at 19 Ill. Reg. 11678, effective May 26, 1995; amended at 21 Ill. Reg. 8445, effective MAY 04 1998.

## SUBPART A: DEFINITIONS

## Section 1245.10 Definitions

"Act" means the Dietetic and Nutrition Services Practice Act (P-Ar 67-784, effective January 17, 1992) [225 ILCS 30].

"Board" means the Dietetic and Nutrition Services Practice Board.

"Department" means the Department of Professional Regulation.

"Director" means the Director of the Department of Professional Regulation.

"Direct Supervision" means supervision by a licensed dietitian, licensed nutrition counselor or other appropriate supervisor as defined in Sections 1245.140 and 1245.240 of this Part. The supervisor shall:

Meet at regularly scheduled sessions with the supervisee a minimum of one hour each week;

Be responsible for the standard of work performed by the individual under supervision; and

Have knowledge of patients/clients and the case information.

"Licensed dietitian" means a person licensed by the Department to practice dietetics as defined in Section 10 of the Act. Dietetics includes all aspects of nutrition care for individuals and groups, including, but not limited to, nutrition assessment, nutrition counseling, nutrition education, nutrition services and medical nutrition care. Activities of a licensed dietitian do not include the medical differential diagnoses of the health status of an individual.

"Licensed nutrition counselor" means a person licensed by the Department to provide nutrition services as defined in Section 10 of the Act. Nutrition services to individuals and groups include, but are not limited to, nutrition assessments, nutrition education, and nutrition counseling and nutrition care. Activities of a licensed nutrition counselor do not include medical nutrition care and do not include the medical differential diagnoses of the health status of an



## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

individual.

"Medical nutrition care" means the component of nutrition care that deals with interpreting and recommending nutrient needs relative to medically prescribed diets, including, but not limited to, tube feedings, specialized intravenous solutions and specialized oral feedings; food and prescription drug interactions; and developing and managing food service operations whose chief function is nutrition care and providing medically prescribed diets.

"Nutrition assessment" means the evaluation of the nutrition needs of individuals or groups using appropriate data to determine nutrient needs or status and make appropriate nutrition recommendations. The mere collection of nutrition and health data is not nutrition assessment and does not require licensure under the Act, unless activities include an evaluation of nutrition needs and nutrition recommendations.

"Nutrition care" means a dietary intervention whose primary function is to improve an individual's nutrition status and involves modification to meet individual needs. Provision of food for general sustenance of being is not construed as nutrition care and not subject to regulation under the Act and this Part.

Nutrition counseling" means advising and assisting individuals or groups on appropriate nutrition information by integrating information from the nutrition assessment. The distribution by an individual of written nutrition educational material prepared by or approved in writing by a licensee is not nutrition counseling or nutrition education and any person distributing such written material need not be licensed under this Act.

"Nutrition education" means a planned nutrition program based on learning objectives with expected outcomes.

"Nutrition information" is oral or written factual data that includes:

Food sources of vitamins, minerals and nutrients;

Nutrient analysis of food, food items, recipes and menus;

Reporting the results of published scientific studies as long as the source is cited and recommendations are general in nature and are limited to those included in the published study;

Instruction and uses of food, dietary supplements and food material consistent with State and federal laws (i.e., Federal Food and Drug Administration, Department of Public Health); and

## DEPARTMENT OF PROFESSIONAL REGULATION

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The display or distribution of printed, audio or video nutrition education information developed by a licensee, an entity of any federal, state or local government, or any nonprofit organization as outlined in Section 20(g) of the Act.

All health claims shall be consistent with the Federal Food and Drug Administration regulations.

Individuals are not required to be licensed to provide nutrition information; however, the evaluation of an individual's or group's dietary intake and/or recommendation for dietary changes is considered nutrition services and a license would be required to perform these activities.

"Registered dietitian" means a person registered with the Commission on Dietetic Registration.

"Restorative care to attainment of optimal health" relates to the use of foods, nutrients and/or dietary supplements for individuals or groups who may or may not have a diagnosed disease or medical condition, as long as it is not medical nutrition therapy. If a person has a diagnosed disease or medical condition and is on a medically prescribed diet, a licensed nutrition counselor shall be limited to use of foods, nutrients and/or dietary supplements so as to indirectly impact or not contraindicate the diagnosed disease or medical condition of the individual or group.

"Supervision" means supervision by a licensed dietitian, licensed nutrition counselor or other appropriate supervisor as defined in Sections 1245.140 and 1245.240. The supervisor shall:

Meet at regularly scheduled sessions with the supervisee a minimum of one hour per month;

Be responsible for the standard of work performed by the individual under supervision; and

Have knowledge of patients/clients and the case information.

"Treatment Program" is any nutrition intervention designed for an individual or group with a specific medical diagnosis, using foods, nutrients and/or dietary supplements so as to directly and specifically impact the medical condition and health status of the individual or group.

(Source: Amended at 21 Ill. Reg. effective  
MAY 04 1998 8445)

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## SUBPART B: DIETITIAN

Section 1245.160 Restoration

- a) Any dietitian whose license has expired or has been placed on inactive status for 5 years or less may have the license restored by paying the fees required by Section 85 of the Act and providing proof of meeting continuing education requirements of Section 1245.190 of this Part during the 2 years prior to restoration.
- b) Any person seeking restoration of a license that has been expired or placed on inactive status for more than 5 years shall file an application, on forms supplied by the Department, for review by the Board, together with the fee required by Section 85 of the Act and proof of meeting continuing education requirements of Section 1245.190 of this Part during the 2 years prior to restoration. The applicant shall also submit:

- 1) Sworn evidence of active practice in another jurisdiction. Such evidence shall include a statement from an appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of active practice.
- 2) An affidavit attesting to military service as provided in Section 65 of the Act.
- 3) Proof of passage of the ADA/CDR examination for dietitians during the period the license was lapsed or on inactive status; or
- 4) Current "Registered Dietitian" status from the Commission on Dietetic Registration.

- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee seeking restoration shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

- d) Upon the recommendation of the Board and approval of the Director, an applicant shall have the license restored or be notified in writing of the reason for denying the application.

(Source: Amended MAY 04 1998 21 Ill. Reg. 84 45 effective

## SUBPART C: NUTRITION COUNSELOR

Section 1245.220 Examination

- a) The examination for licensed nutrition counselors shall be the

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examination authorized by the Department. ~~administered by the Department and provided by the Certification Board for Nutrition Specialists with the American College of Nutrition.~~

- b) The passing score on the examination shall be the passing score of the testing entity.
- c) Applicants who fail the examination 3 times in Illinois or any other jurisdiction shall be required to submit proof to the Department of the completion of 6 semester hours of nutrition course work as set forth in Section 1245.230(a)(6) prior to sitting for the examination a fourth time. An individual who has failed the examination 3 times shall be allowed to work under the direct supervision of an appropriate supervisor as defined in Section 1245.240(a).

(Source: Amended at 21 Ill. Reg. 84 45 effective MAY 04 1998)

Section 1245.260 Restoration

- a) Any nutrition counselor whose license has expired or has been placed on inactive status for 5 years or less may have the license restored by paying the fees required by Section 85 of the Act and providing proof of meeting continuing education requirements of Section 1245.290 of this Part during the 2 years prior to restoration.

- b) Any person seeking restoration of a license that has been expired or placed on inactive status for more than 5 years shall file an application, on forms supplied by the Department, for review by the Board, together with the fee required by Section 85 of the Act and proof of meeting continuing education requirements of Section 1245.290 of this Part during the 2 years prior to restoration. The applicant shall also submit:

- 1) Sworn evidence of active practice in another jurisdiction. Such evidence shall include a statement from an appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of active practice;
- 2) An affidavit attesting to military service as provided in Section 65 of the Act; or
- 3) Proof of passage of the Department authorized examination for nutrition counselor during the period the license was lapsed or on inactive status.

- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee seeking restoration shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.



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- d) Upon the recommendation of the Board and approval of the Director, an applicant shall have the license restored or be notified in writing of the reason for denying the application.

(Source: Added at 21 Ill. Reg. 8445, effective MAY 04 1998)

## SUBPART D: GENERAL

## Section 1245.300 Renewal

- a) The first renewal period for licenses issued under the Act shall be October 31, 1997. Thereafter, every license issued under the Act shall expire October 31 of odd-numbered years. Beginning with the October 31, 1999 renewal and every renewal thereafter, in order to renew a license, a licensee shall be required to complete 30 hours of continuing education in accordance with Section 1245.310 of this Part. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee.
- b) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

(Source: Amended at 21 Ill. Reg. 8445, effective MAY 04 1998)

## Section 1245.310 Continuing Education

## a) Continuing Education Hours Requirements

- 1) For the October 31, 1999 renewal, a licensee will be required to complete 15 hours of continuing education. Beginning with the October 31, 2001 renewal and every renewal thereafter, in order to renew a license a licensee shall be required to complete 30 hours of continuing education.
- 2) A prerenewal period is the 24 months preceding October 31 of each odd-numbered year.
- 3) One CE hour shall equal one clock hour. After completion of the initial CE hour, credit may be given in one-half hour increments.
- 4) Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour, 14 CE hours for each trimester hour and 10 CE hours for each quarter hour of school credit awarded.
- 5) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.
- 6) Dietitians and nutrition counselors licensed in Illinois but residing and practicing in other states shall comply with the CE

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- 7) requirements set forth in this Section. Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.

## b) Approved Continuing Education

- 1) Continuing education hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at or participation in a program or course (program) that is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c) below, except for those activities provided in subsections (b)(2), (3), (4) and (5) below.
- 2) CE credit may be earned through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of dietetic or nutrition services related courses that are a part of the curriculum of a college or university.
- 3) CE credit may be earned for verified teaching in a regionally accredited college, university or graduate school of dietetics approved in accordance with Section 1283.130 or nutrition services approved in accordance with Section 1283.230 and/or as an instructor of continuing education programs given by approved sponsors. Credit will be applied at the rate of 1.5 hours for every clock hour taught and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations). A person may earn up to 10 hours per renewal. CE credit may be earned for community education in the field of dietetics or nutrition services. A total of 6 hours of credit may be obtained during one renewal period.
- 5) CE credit may be earned for authoring papers, publications or books and for preparing presentations and exhibits. The preparation of each published paper, book chapter or audio-visual presentation dealing with dietetics or nutrition services may be claimed as 5 hours of credit per renewal period. A presentation must be before an audience of dietitians or nutrition counselors. Five credit hours may be claimed for only the first time the information is published or presented.

## c) Approved CE Sponsors and Programs

- 1) Sponsor, as used in this Section, shall mean one of the following:
  - A) American Dietetic Association (ADA), branch associations, or organizations approved as sponsors of continuing education by the Commission on Dietetic Registration (CDR);
  - B) Certification Board of Nutrition Specialists (CBNS), branch associations, or organizations approved as sponsors of continuing education by the CBNS;
  - C) Regionally accredited colleges, universities;
  - D) A person, firm, association, corporation or any other group that has been approved and authorized by the Department upon



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recommendation of the Board to coordinate and present continuing education courses and programs.

- 2) An entity seeking approval as a CE sponsor shall submit an application, on forms supplied by the Department, along with the required fee as set forth in Section 85 of the Act. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The application shall include:

- A) Certification:
- i) That all programs offered by the sponsor for CE credit shall comply with the criteria in subsection (c)(3) below and all other criteria in this Section;
  - ii) That the sponsor shall be responsible for verifying attendance at each program and provide a certificate of attendance to the participant as set forth in subsection (c)(9) below;
  - iii) That upon request by the Department, the sponsor shall submit evidence (e.g., certificate of attendance or course material) as is necessary to establish compliance with this Section. Evidence shall be required when the Department has reason to believe that there is not full compliance with the Act and this Part and that this information is necessary to ensure compliance;
  - iv) That each sponsor shall submit to the Department written notice of program offerings, including program offerings of subcontractors, 30 days prior to course dates. Notice shall include the description, location, date and time of the program to be offered; B) A copy of a 3 hour sample program with faculty, course materials and syllabi.

- 3) All programs shall:
- A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of dietetics or nutrition services;
  - B) Foster the enhancement of general or specialized work in the practice of dietetics or nutrition services;
  - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
  - D) Specify the course objectives, course content and teaching methods to be used; and
  - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for renewal of a license.

- 4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor

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and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.

- 5) An approved sponsor may subcontract with individuals and organizations to provide approved programs. All advertising promotional materials and certificates of attendance must identify the licensed sponsor and the sponsor's license number. The presenter of the program may also be identified, but should be identified as a presenter. When a licensed sponsor subcontracts with a presenter, the licensed sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.
- 6) All programs given by approved sponsors shall be open to all dietitians and nutrition counselors and not be limited to members of a single organization or group.
- 7) To maintain approval as a sponsor, each sponsor shall submit to the Department by October 31 of each odd-numbered year a renewal application, the fee required in Section 85 of the Act and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given.
- 8) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:
  - A) The name, address and license number of the sponsor;
  - B) The name and address of the participant;
  - C) A brief statement of the subject matter;
  - D) The number of hours attended in each program;
  - E) The date and place of the program; and
  - F) The signature of the sponsor.
- 9) The sponsor shall maintain attendance records for not less than 5 years.
- 10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
- 11) Upon the failure of a sponsor to comply with any one of the foregoing requirements, the Department, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Department receives assurances of compliance with requirements of this Section.
- 12) Notwithstanding any other provision of this Section, the Department or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.

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## d) Certification of Compliance with CE Requirements

- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b) above.
- 2) The Department may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Department's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.
- 3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

## e) Continuing Education Earned in Other Jurisdictions

- 1) If a licensee has earned CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, within 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using criteria set forth in subsection (c)(3) of this Section. Applicants may seek individual program approval prior to participating in the program.

- 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$20 processing fee plus a \$10 per hour late fee not to exceed \$150. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in this Section.

- f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the Department shall restore the license upon payment of the required fee as provided in Section 85 (c) of the Act.

## g) Waiver of CE Requirements

- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Department a renewal application along with the required fee set forth in Section 55(d) of the Act, a statement setting forth the facts concerning noncompliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Department, upon the written recommendation of the Board, finds, from such affidavit or any other evidence submitted, that extreme hardship has been shown for granting a waiver, the Department shall waive enforcement of CE requirements for the renewal period for which

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the applicant has applied.

- 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable pre-renewal period because of:

- A) Full-time service in the armed forces of the United States of America during a substantial part of the pre-renewal period;
  - B) An incapacitating illness documented by a statement from a currently licensed physician;
  - C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; and
  - D) Any other similar extenuating circumstance.
- 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Department.

(Source: Added at 21 Ill. Reg.

MAY 04 1998

effective

84 45

## Section 1245.330 Unprofessional Conduct

- a) The Department may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action based upon its finding of "unethical, unauthorized, or unprofessional conduct" within the meaning of Section 95 of the Act, which is interpreted to include, but is not limited to, the following acts or practices:

- 1) Discriminating against clients on the basis of race, gender, religion, age, national origin, political affiliation, social or economic status, choice of lifestyle or sexual orientation;
- 2) Promoting or endorsing products in a manner that is not true or is misleading;
- 3) Permitting the use of his/her name to certify that professional services have been rendered when the licensee has not provided or supervised those services. When providing supervision the licensee shall assume responsibility for the actions of any person under their supervision;
- 4) Making gross or deliberate misrepresentations or misleading claims as to his/her professional qualifications or of the efficacy or value of his/her nutrition services, or those of another practitioner;
- 5) Submission of fraudulent claims for services to any health insurance company or health service plan or third party payor;
- 6) Refusing to divulge to the Department techniques or procedures used in his/her professional activities upon request;
- 7) Practicing or offering to practice beyond one's competency (for

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example, providing services and techniques for which one is not qualified by education, training and experience).

- 8) Directly or indirectly giving to or receiving from any person, firm or corporation any fee, commission, rebate or other form of compensation for any professional services not actually rendered.

- b) A dietitian or nutrition counselor shall not advertise in any way that is fraudulent, false, deceptive or misleading. Any advertising shall be considered fraudulent, false, deceptive or misleading if it:

- 1) Contains a misrepresentation of facts;
- 2) Makes only a partial disclosure of relevant facts;
- 3) Represents that professional services can or will be completely performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will in fact be charged;
- 4) Represents the licensee in a deceptive or misleading manner with respect to the profession or professional status of the licensee;
- 5) Contains any representation of a special area of practice by the licensee which implies that the licensee requires a superior license or formal recognition by the Department other than a licensed dietitian or nutrition counselor;
- 6) Makes false, unproven or misleading claims about the validity, safety, or effectiveness of any dietetic or nutrition related service, product or test;
- 7) Fails to conspicuously identify the licensee by name in the advertisement.

(Source: Added at 21 Ill. Reg. 0445, effective MAY 04 1998)

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- 1) Heading of the Part: Professional Counselor and Clinical Professional Counselor Licensing Act

- 2) Code Citation: 68 Ill. Adm. Code 1375

- 3) Section Numbers: Adopted Action:

1375.10	Amendment
1375.20	Amendment
1375.30	Amendment
1375.40	Amendment
1375.50	Amendment
1375.60	Amendment
1375.70	Amendment
1375.80	Amendment
1375.100	Amendment
1375.110	Amendment
1375.120	Amendment
1375.140	Amendment
1375.150	Amendment
1375.160	Amendment
1375.170	Amendment
1375.200	Amendment
1375.220	New Section
1375.225	New Section
1375.APPENDIX A	New Section

- 4) Statutory Authority: Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107]

- 5) Effective Date of Amendments: May 4, 1998

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these Amendments contain incorporations by reference? No

- 8) Date Filed in Agency's Principal Office: May 4, 1998

- 9) Date Notice of Proposal Published in Illinois Register: July 7, 1997, at 21 Ill. Reg. 8135

- 10) Has JCAR issued a Statement of Objections to these amendments? No

- 11) Difference(s) between proposal and final version: No substantive changes were made to the proposed version. The only changes involved spelling and style.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes



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13) Will these Amendments replace Emergency Amendments currently in effect?  
Yes

14) Are there any Amendments pending on this Part? No

15) Summary and Purpose of Amendments: The proposed rules clarify that the experience requirements are to be met subsequent to obtaining the required educational degree. They provide that an applicant may substitute 15 semester hours of graduate courses relating to counseling for one year of supervised training. Regarding approval of academic programs, it specifies that all programs must include a one year residence requiring interaction with faculty and other students. Since the transition period for various requirements ends December 31, 1998, applicants are given until that date (rather than September 5, 1998) to take the National Clinical Mental Health Counseling Examination. Also all certifications currently accepted by the Department from national organizations after December 31, 1998, will need to be current. Educational program requirements will change on December 31, 1998, the rules set forth provisions that will allow individuals until January 1, 2003, to have their education evaluated under prior educational requirements.

Licenses will be required to complete 12 hours of continuing education for the 1999 renewal and 30 hours of continuing education for every renewal thereafter. This rulemaking provides for sponsor approval for individuals wanting to provide continuing education and also sets forth the provisions by which licensees may obtain continuing education. Standards of Unprofessional Conduct have been set forth in these rules. The Appendix sets forth definitions of course content areas and outlines subject areas, including examples of acceptable courses.

16) Information and questions regarding this amended part shall be directed to:

Department of Professional Regulation  
Attention: Jean Courtney  
320 West Washington, 3rd Floor  
Springfield, IL 62786  
217/785-0813  
Fax #: 217/782-7645

The full text of the Adopted Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION  
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

## PART 1375

PROFESSIONAL COUNSELOR AND CLINICAL PROFESSIONAL COUNSELOR  
LICENSING ACT

## SUBPART A: LICENSED PROFESSIONAL COUNSELOR

Section  
1375.10  
1375.20  
1375.30  
1375.40  
1375.50  
1375.60  
1375.70  
1375.80

Temporary License as a Professional Counselor  
How to Obtain a Permanent License as a Professional Counselor After Receiving a Temporary License  
Application for Examination/Permanent Licensure as a Professional Counselor  
Professional Experience as a Professional Counselor after December 31, 1998  
Approved Professional Counseling Programs  
Examination - Professional Counselor  
Endorsement - Professional Counselor  
Restoration - Professional Counselor

## SUBPART B: LICENSED CLINICAL PROFESSIONAL COUNSELOR

Section  
1375.100  
1375.110  
1375.120  
1375.130  
1375.135  
1375.140  
1375.150  
1375.160  
1375.170

Temporary License as a Clinical Professional Counselor  
How to Obtain a Permanent License as a Clinical Professional Counselor After Receiving a Temporary License  
Application for Examination/Permanent Licensure as a Clinical Professional Counselor  
Professional Experience for Licensure as a Clinical Professional Counselor Beginning January 1, 1999  
Clinical Professional Counselor Licenses for Clinical Psychologists and Clinical Social Workers  
Approved Clinical Professional Counseling Programs  
Examination - Clinical Professional Counselor  
Endorsement - Clinical Professional Counselor  
Restoration - Clinical Professional Counselor

## SUBPART C: GENERAL

Section  
1375.200  
1375.210  
1375.220  
1375.225

Renewals  
Inactive Status  
Continuing Education  
Unprofessional Conduct

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## 1375.230 Granting Variances

## APPENDIX A Course Descriptions

AUTHORITY: Implementing the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 18 Ill. Reg. 18018, effective December 12, 1994; amended at 22 Ill. Reg. ~~8460-2-3~~ effective MAY 04 1998.

## SUBPART A: LICENSED PROFESSIONAL COUNSELOR

## Section 1375.10 Temporary License as a Professional Counselor

- a) Any person seeking a temporary license without examination under Section 55 of the Professional Counselor and Clinical Professional Counselor Licensing Act (the Act) shall file an application with the Department of Professional Regulation (the Department) on forms provided by the Department. The application shall include the following:

- 1) Education/Experience
  - A) Certification of a minimum of a master's degree in counseling, rehabilitation counseling or psychology from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located regionally-accredited institution, or certification of education and an official transcript from a similar master's program approved by the Department in accordance with Section 1375.50 of this Part; or
  - B) Certification of a baccalaureate degree from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located and documentation of the equivalent of 3 years of full-time satisfactory supervised experience as a professional counselor subsequent to the degree:
    - i) An applicant shall document a total of 5040 clock hours of experience. No more than 1680 clock hours may be counted toward one year of experience. Part time experience shall be counted toward the experience requirement.
    - ii) The supervisor shall document the experience as satisfactory or better.
    - iii) Supervised work experience, for purposes of this Section, shall entail services to individuals, couples, groups, families and organizations in any one or more of the fields of professional counseling defined in Section 10 of the Act.

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- iv) Qualified supervisors are those individuals who, at the time of supervision, were master's level or doctoral level counselors (such as, but not limited to, licensed or registered marriage and family therapists, registered art therapists, pastoral counselors, school counselors, school social workers, school psychologists, certified rehabilitation counselors), certified social workers or licensed clinical social workers, licensed clinical psychologists or licensed/registered psychologists, psychiatrists defined in Section 1-121 of the Mental Health and Developmental Disabilities Code or licensed clinical professional counselors.
  - v) An applicant may substitute, one time only, 15 semester hours or equivalent quarter hours of graduate courses related to counseling for one year of satisfactory supervised training.
- 2) A complete work history since receipt of the graduation--with--a first qualifying degree required for licensure (baccalaureate, master's or doctoral degree).
  - 3) The required fee specified in Section 60(a) of the Act.
  - 4) Certification of licensure, on forms provided by the Department, from the state or territory of the United States in which an applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:
    - A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance in that jurisdiction;
    - B) A description of the examination in that jurisdiction; and
    - C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
  - b) All temporary licenses will expire on September 5, 1998. Any holder of a temporary license who has not passed the examination and obtained a permanent professional counselor license by September 5, 1998, shall be required to submit a new application to the Department pursuant to Section 1375.30 and meet the requirements in effect at the time of reapplication.
  - c) The Department, upon recommendation of the Professional Counselor Examining and Disciplinary Board (the Board), has determined that the educational and experience requirements of the following certifications meet the standards for an applicant to sit for the examination:
    - 1) Illinois Alcohol and Other Drug Abuse Professional Certification Association, Inc. at the master's level (Certified Master AODA Counselor)
    - 2) Clinical member of the American Association of Marriage and Family Therapy (AAMFT)

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- 3) Type 73 certificate issued by the Illinois State Board of Education as a School Psychologist, School Counselor and School Social Worker
- 4) American Association of Pastoral Counselors Fellow or Diplomate
- An applicant who holds certification in any of the above groups needs to submit a copy of a certification in lieu of the documents required in subsections (a)(1)(A) and (B) above.
- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:
- 1) Provide such information as may be necessary; and/or
  - 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 22 Ill. Reg. 84 60, effective MAY 04 1998)

### Section 1375.20 How to Obtain a Permanent License as a Professional Counselor After Receiving a Temporary License

- a) Any person holding a temporary license as a professional counselor shall pass an examination specified in Section 1375.60 to qualify for a permanent license. The examination shall be passed by midnight September 5, 1998, when all temporary licenses expire, regardless of when they were issued.
- b) Any person who obtained a temporary license as a professional counselor with a baccalaureate and 3 years of experience under Section 1375.10(a)(1)(B) must document the equivalent of an additional 2 years of full-time supervised work obtained after receipt of the temporary license to become eligible to take the examination for a permanent license.
- 1) One year of experience shall be a maximum of 1680 clock hours with--a--minimum-of-one-hours-per-week-of-supervision. Two years equals 3360 clock hours. No more than 1680 clock hours may be counted toward one year of experience. Part time experience shall be counted toward the experience requirement.
  - 2) Supervised work experience, for purposes of this Section, shall entail services to individuals, couples, groups, families and organizations in any one or more of the fields of professional counseling defined in Section 10 of the Act.
  - 3) Qualified supervisors are those individuals who, at the time of supervision, were master's level or doctoral level counselors (such as, but not limited to, licensed or registered marriage and family therapists, registered art therapists, pastoral counselors, school counselors, school social workers, school

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psychologists, certified rehabilitation counselors), certified social workers or licensed clinical social workers, licensed clinical psychologists or licensed/registered psychologists, psychiatrists defined in Section 1-121 of the Mental Health and Developmental Disabilities Code or licensed clinical professional counselors.

- 4) The experience shall have been evaluated by the supervisor as satisfactory or better.
- 5) An applicant may substitute, one time only, 15 semester hours or equivalent quarter hours of graduate courses related to counseling for one year of satisfactory supervised training.
- c) To sit for the examination, all applicants shall submit an application form provided by the Department, along with the examination fee, to the designated testing service.
- d) If an applicant passed an examination pursuant to Section 1375.60(b) prior to September 1998, the applicant shall have the examination scores submitted to the Department directly from the testing service. When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:
- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.
- f) Upon notification to the Department by the testing service that the applicant has passed the examination and the submission by the applicant of the required fee set forth in Section 60 of the Act, the permanent professional counselor license may be issued.

(Source: Amended at 22 Ill. Reg. 84 60, effective MAY 04 1998)

### Section 1375.30 Application for Examination/Permanent Licensure as a Professional Counselor

- a) Each applicant seeking original licensure under Section 35 of the Act shall file an application with the Department, on forms provided by the Department, at least 90 days prior to an examination date. The application shall include:
- 1) For individuals who graduated or who were enrolled in a program prior to January 1, 1999 until December 31, 1998 (individuals who have until January 1, 2003 to complete the educational requirements set forth in Section 1375.50(a)); otherwise, the applicant will be required to meet the educational requirements set forth in Section 1375.50(b):
  - A) Certification of education from a master's or doctoral



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degree program in counseling, psychology or rehabilitation counseling from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located regionally-accredited institution, or certification of graduation and a transcript from a similar master's or doctoral degree program approved by the Department in accordance with Section 1375.50(a) of this Part; or

B) Certification of a baccalaureate degree from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located and 5 years of full time satisfactory supervised experience as a professional counselor subsequent to the degree. The experience shall meet the following requirements:

i) An applicant shall document a total of 8400 5040 clock hours of experience. No more than 1680 clock hours may be counted toward one year of experience. Part time experience shall be counted toward the experience requirement.

ii) The supervisor shall document the experience as satisfactory or better.

iii) Supervised work experience, for purposes of this Section, shall entail services to individuals, couples, groups, families and organizations in any one or more of the fields of professional counseling defined in Section 10 of the Act.

iv) Qualified supervisors are those individuals who, at the time of supervision, were master's level or doctoral level counselors (such as, but not limited to, licensed or registered marriage and family therapists, registered art therapists, pastoral counselors, school counselors, school social workers, school psychologists, certified rehabilitation counselors), certified social workers or licensed clinical social workers, licensed clinical psychologists or licensed/registered psychologists, psychiatrists defined in Section 1-121 of the Mental Health and Developmental Disabilities Code or licensed clinical professional counselors.

v) An applicant may substitute, one time only, 15 semester hours or equivalent quarter hours of graduate courses related to counseling for one year of satisfactory supervised training.

vi) An applicant may begin gaining the required experience upon completion of the degree requirements. Verification of the date of completion of the degree, when different from the date of graduation, shall be certified to the Department by the applicant's

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educational institution.

2) Beginning January 1, 1999:

- A) Certification of education and an official transcript from a master's or doctoral degree program in counseling, psychology, rehabilitation counseling or similar degree program approved in accordance with Section 1375.50(a) of this Part; or
- B) Certification of education and an official transcript from a baccalaureate program in human services or similar degree program approved by the Department in accordance with Section 1375.50 of this Part and documentation of completion of 5 years of supervised professional experience subsequent to the degree in accordance with Section 1375.40 of this Part.

3) A complete work history since receipt of a qualifying degree for licensure (baccalaureate, master's or doctorate degree).

4) The required fee set forth in Section 60 of the Act.

5) Certification of licensure, on forms provided by the Department, from the state or territory of the United States in which an applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance in that jurisdiction;
- B) A description of the examination in that jurisdiction; and
- C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

b) Individuals applying for licensure as a professional counselor may submit one of the following certifications current-certification (based on examination), in lieu of the documents required in subsection (a)(1) and (2)-from-one-of-the-following-organizations:

- 1) Certified Clinical Mental Health Counselor (CCMHC)
- 2) Commission on Rehabilitation Counselor Certification (CRC)
- 3) Nationally Certified Career Counselors (NCCC) through-National Board-for-Certified-Counselors-(NBCC)
- 4) Nationally Certified School Counselors (NCSC) through-NBCC
- 5) National Certified Counselor (NCC)
- 6) Nationally Certified Gerontological Counselor (NCGC) through-NBCC

An applicant submitting one of the certifications listed above will not be required to take and pass an additional examination administered by the Department. The Department, upon recommendation of the Board, has determined that the education, experience and examination requirements are equivalent to the requirements for licensure as a professional counselor.

c) The Department, upon recommendation of the Board, has determined that the educational and experience requirements of the following certifications meet the standards for an applicant to sit for the

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## examination:

- 1) Illinois Alcohol and Other Drug Abuse Professional Certification Association, Inc. at the master's level (Certified Master AODA Counselor) (IODAPCA) level
- 2) Clinical Member of the American Association of Marriage and Family Therapy (AAMFT)
- 3) Type 73 certificate issued by the Illinois State Board of Education as a School Psychologist, School Counselor or School Social Worker
- 4) Fellow or Diplomate of the American Association of Pastoral Counselors (AAPC)

An applicant who holds certification in any of the above groups needs to submit a copy of a certification in lieu of the documents required in subsections (a)(1) and (2) above. After December 31, 1998 all certifications accepted by the Department shall be current.

- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:
  - 1) Provide such information as may be necessary; and/or
  - 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 22 Ill. Reg. 84 60 effective MAY 04 1998)

#### Section 1375.40 Professional Experience as a Professional Counselor after December 31, 1998

- a) Persons applying for licensure as professional counselors after December 31, 1998, who hold a baccalaureate degree in human services or similar degree program that meets the requirements set forth in Section 1375.50, shall be required to complete 5 years of satisfactory supervised professional experience as follows:
  - 1) One year of experience shall be a maximum of 1680 clock hours obtained in not less than 48 weeks. A total of 8400 clock hours is required. No more than 1680 clock hours may be counted toward one year of experience. Part time experience shall be counted toward the experience requirement.
  - 2) 15 semester hours or equivalent quarter hours of graduate courses related to counseling may be substituted one time for one year of work experience.
  - 3) Supervised experience shall be experience obtained under a qualified supervisor and entail the provision of services to individuals, couples, groups, families and organizations in any one or more of the fields of professional counseling defined in

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## Section 10 of the Act.

- 4) A qualified supervisor means any person who is a licensed clinical professional counselor, licensed clinical social worker, certified--social-worker, licensed clinical psychologist, or psychiatrist as defined in Section 1-121 of the Mental Health and Developmental Disabilities Code. If supervision took place outside Illinois, the supervisor shall be a master's level or doctoral level counselor engaged in clinical professional counseling. The supervisor shall hold a license if the jurisdiction in which the supervisor practices requires licensure.
- 5) The supervisor shall have met with the applicant at least one hour each week.
- 6) The experience shall have been evaluated by the supervisor as satisfactory or better.
- 7) The supervisor may be provided at the applicant's place of work or may be hired by the applicant to provide supervision.
- 8) The counseling activities must be performed pursuant to the supervisor's order, control, oversight, guidance and full professional responsibility.
- b) An applicant may begin gaining the required experience upon completion of the degree requirements. Verification of the date of completion of the degree, when different from the date of graduation, shall be certified to the Department by the applicant's educational institution.
- c) A person holding a master's degree or doctorate in the field of counseling, rehabilitation counseling, psychology or similar degree program shall not be required to document experience to qualify for licensure as a professional counselor.

(Source: Amended at 22 Ill. Reg. 84 60 effective MAY 04 1998)

#### Section 1375.50 Approved Professional Counseling Programs

- a) The Department shall approve similar degree programs (baccalaureate, master's, doctoral degree), on or before December 31, 1998, utilizing the following criteria:
  - 1) The program shall be located in a college, university or school recognized by the education accrediting authority in the jurisdiction in which it is located.
  - 2) The program shall require an individual to complete a minimum of 30 semester hours or equivalent quarter hours in any of the following 13 core areas described in more detail in Appendix A of this Part:
    - A) Human Growth and Development and Maladaptive Behavior
    - B) Counseling Theory
    - C) Counseling Techniques

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- D) Group Dynamics, Processing and Counseling
- E) Appraisal of Individuals
- F) Research and Evaluation
- G) Professional, Legal and Ethical Responsibilities relating to professional counseling, especially as related to Illinois law
- H) Social and Cultural Foundations
- I) Lifestyle and Career Development
- J) Practicum
- K) Counseling Education
- L) Counseling Supervision
- M) Counseling Administration

b) Beginning After January 1, 1999, the Department shall, upon the recommendation of the Professional Counselor Examining and Disciplinary Board, approve baccalaureate programs in human services or similar degree programs at the baccalaureate level or counseling, rehabilitation counseling, psychology, or similar degree programs at the master's or doctoral level if they meet the following requirements:

- 1) The institution is a regionally accredited institution of higher education,
- 2) The program, wherever it may be administratively housed, must be clearly identified and labeled as offering counseling, rehabilitation counseling, psychology or similar programs. Such a program must specify in institutional catalogues and brochures its intent to educate and train counselors or the institution grants a baccalaureate human services degree,
- 3) The program is an organizational entity within the institution,
- 4) The program has an integrated, organized sequence of study at least 2 academic years in length and must require an individual to complete a minimum of 48 semester hours or equivalent quarter hours with a course in at least 10 of the 16 core areas listed below:

- A) Human Growth and Development
- B) Counseling Theory
- C) Counseling Techniques
- D) Group Dynamics, Processing and Counseling
- E) Appraisal of Individuals
- F) Research and Evaluation
- G) Professional, Legal and Ethical Responsibilities relating to professional counseling, especially as related to Illinois law
- H) Social and Cultural Foundations
- I) Lifestyle and Career Development
- J) Practicum
- K) Counseling Education
- L) Counseling Supervision
- M) Counseling Administration

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- N) Family Dynamics
- O) Psychopathology and Maladaptive Behavior
- P) Substance Abuse

5) The program has faculty responsible for the program and has a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled, the program has an identifiable body of students who are matriculated in that program for a degree.

6) The program has a one year residence. Residence requires interaction with faculty and other matriculated students. One year's residence is defined as 24 semester hours taken on a full-time or part-time basis at the institution accumulated within the time frame and course of study of the program.

c) Reevaluation of an Approved Program

- 1) The Department may reevaluate any approved program at any time if it has reason to believe that the program has failed to continue to satisfy the minimum requirements of this Section or that the Department's decision to approve a program was based upon false, deceptive or incomplete information.
- 2) A program whose approval is being reevaluated by the Department shall be given at least 15 days written notice prior to any recommendation by the Board and may either submit written comments or request a hearing before the Board.
- d) For the purposes of this Section, course shall be defined as an integrated, organized course of study which encompasses a minimum of one school semester or equivalent hours term. NO workshops, student designed courses, independent study courses or correspondence courses may be used to satisfy the core courses.
- e) The Department, upon recommendation of the Board, has determined that all master's degree and doctoral programs in professional counseling that are accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) and the Council on Rehabilitation Education (CORE) are approved. All doctoral programs in psychology of the American Psychological Association or the Council for the National Register of Health Service Providers in Psychology are approved.
- f) Individual Program Requirements
  - 1) Individuals applying for licensure as a professional counselor who have not graduated from a program approved by the Department shall submit their transcripts and program materials to the Department for evaluation by the Board to determine if they meet the requirements of this Section.
  - 2) 97 Individuals applying for licensure who are deficient in any of the core content areas in subsection (b)(4) above may complete any one--or--all of these courses in a counseling, rehabilitation counseling, psychology or similar degree program from an accredited institution. The applicant will be required to submit proof to the Department that he/she has passed such a course(s).



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Proof may include, but not be limited to, transcripts, curriculum and course materials.

- 3) Individuals who are admitted to a degree program prior to January 1, 1999 have until January 1, 2003 to meet the educational requirements set forth in subsection (a) of this Section. After that date the applicant will be required to meet the curriculum requirements set forth in subsection (b) of this Section.

(Source: Amended at 22 Ill. Reg. 84 60 effective MAY 04 1998)

## Section 1375.60 Examination - Professional Counselor

- a) The examination administered by the Department for licensure as a professional counselor shall be the National Counselor Examination (NCE) of the National Board for Certified Counselors (NBCC).
- b) The passing score on the examination shall be the passing score established by the testing entity.
- c) The Department also shall accept passage of the Certified Rehabilitation Counselor Examination of the Commission on Rehabilitation Counselor Certification (CRCC), and the Certified Clinical Mental Health Counselor (CCMHC) and Assessment Services Incorporation (ASI) Licensed Professional Counselor Examination. The passing scores on the examinations shall be the passing scores established by the testing entity.
- d) The Department shall accept the National Counseling Examination (NCE) taken and passed, according to Department standards, in Illinois or in another jurisdiction.

(Source: Amended 22 Ill. Reg. 84 60 effective MAY 04 1998)

## Section 1375.70 Endorsement - Professional Counselor

- a) Each applicant seeking licensure under Section 70 of the Act shall file an application with the Department on forms provided by the Department. The application shall include:

- 1) Through ~~the~~ December 31, 1998:
- A) Certification of education from a master's or doctoral degree program in counseling, psychology or rehabilitation counseling from a college, university or school recognized by the educational accrediting authority in the jurisdiction in which it is located ~~regionally-accredited institution~~, or certification of education and a transcript from a similar master's or doctoral degree program approved by the Department in accordance with Section 1375.50(a) of this Part; or

- B) Certification of a baccalaureate degree from a college,

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university or school recognized by the educational accrediting authority in the jurisdiction in which it is located and 5 years of full time satisfactory supervised experience as a professional counselor as defined in Section 1375.30(a)(1)(B).

- 2) Beginning January 1, 1999:

- A) Certification of education and an official transcript from a master's or doctoral degree program in counseling, psychology, rehabilitation counseling or similar degree program approved in accordance with Section 1375.50(a) of this Part; or
- B) Certification of education and an official transcript from a baccalaureate program in human services or similar degree program approved by the Department in accordance with Section 1375.50 of this Part and documentation of completion of 5 years of supervised professional experience in accordance with Section 1375.40 of this Part.
- 3) A complete work history since receipt of a qualifying degree for licensing (a baccalaureate, master's or doctorate degree).
- 4) Successful completion of the professional counselor examination set forth in Section 1375.60 of this Part.
- 5) The required fee set forth in Section 60(a) of the Act.
- 6) Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant is currently licensed, if applicable, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;

- B) A description of the examination in that jurisdiction; and
- C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

- b) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended 22 Ill. Reg. 84 60 effective MAY 04 1998)

## Section 1375.80 Restoration - Professional Counselor

- a) Any professional counselor whose license has expired or has been

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placed on inactive status for 5 years or less may have the license restored by paying the fees required by Section 60(c) of the Act. Individuals restoring after March 31, 1999 will be required to submit proof of having met the continuing education requirements pursuant to Section 1375.220.

- b) Any person seeking restoration of a license that has been expired or placed on inactive status for more than 5 years shall file an application, on forms supplied by the Department together with the fee required by Section 60(d) of the Act. Individuals restoring after March 31, 1999 will be required to submit proof of having met the continuing education requirements pursuant to Section 1375.220. The applicant shall also submit either:

- 1) Certification of active practice in another jurisdiction. Such certification shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice; or
- 2) An affidavit attesting to military service as provided in Section 60(d) of the Act; or

- 3) Proof of passage of the National Counselor Examination (NCE) or the Certified Rehabilitation Counselor Examination or the Certified Clinical-Mental-Health-Counselor--(CCMHC) during the period the license was lapsed or on inactive status.

- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department because of a lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration of a license shall be required to:

- 1) provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information. Upon recommendation of the Board and approval by the Department, an applicant shall have the license restored.

(Source: Amended 22 Ill. Reg. 8460, effective MAY 04 1998)

## SUBPART B: LICENSED CLINICAL PROFESSIONAL COUNSELOR

## Section 1375.100 Temporary License as a Clinical Professional Counselor

- a) Any person seeking a temporary clinical professional counselor license without examination under Section 55 of the Professional Counselor and Clinical Professional Counselor Licensing Act shall file an application with the Department on forms provided by the Department. The application shall include the following:

- 1) Certification of a minimum of a master's degree in the field of

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counseling, rehabilitation counseling or psychology from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located regionally-accredited institution, or certification of education and an official transcript of a similar master's or doctorate program approved by the Department in accordance with Section 1375.140 of this Part;

2) Documentation of the equivalent of one unit of acceptable experience subsequent to the degree:

- A) One unit of full-time clinical professional counseling experience under the direction of a qualified supervisor. A qualified supervisor is any person who is a master's level or doctoral level counselor (such as, but not limited to, registered art therapist, licensed or registered marriage and family therapist, school counselor, school social worker, school psychologist, certified rehabilitation counselor at the master's level, pastoral counselor), a licensed clinical professional counselor, certified social worker or licensed clinical social worker, or licensed/registered clinical psychologist, or psychiatrist as defined in Section 1-121 of the Mental Health and Developmental Disabilities Code.
- ii) Two years of clinical professional counseling experience independent of the direction of a qualified supervisor.
- iii) A qualified supervisor may be provided at the applicant's place of work, or may be hired by the applicant to provide supervision.

- B) One year of full-time experience shall be a maximum of equals 1680 clock hours obtained in not less than 48 weeks. No more than 1680 clock hours may be counted toward one year of experience. Part time experience shall be counted toward the experience requirement.
- C) The unit requirements for this Section may be satisfied by supervised experience, independent experience or a combination of supervised and independent experience.

- D) Experience shall be documented as follows:
  - i) Certification of experience signed by the applicant's supervisor; or
  - ii) Three affidavits from the applicant's peers or colleagues who are familiar with the applicant's work;

- 3) A complete work history since completion of a master's degree program;
- 4) The required fee specified in Section 60(a) of the Act; and
- 5) Certification of licensure, on forms provided by the Department, from the state or territory of the United States in which an



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applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance in that jurisdiction;
  - B) A description of the examination in that jurisdiction; and
  - C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
- b) All temporary licenses will expire on September 5, 1998. Any holder of a temporary clinical professional counselor license who has not passed the examination and obtained a permanent clinical professional counselor license by September 5, 1998, shall be required to submit a new application to the Department pursuant to Section 1375.120 and meet the requirements in effect at the time of reapplication.
- c) The Department, upon recommendation of the Board, has determined that individuals who hold a Certified Master AODA Counselor (CMADC) certification from the Illinois Alcohol and Other Drug Abuse Professional Certification Association (IODAPCA) meet the education and experience requirements to be eligible to sit for the examination. An applicant shall submit a CMADC certification from IODAPCA in lieu of the documents required in subsections (a)(1) and (2). Applicants will be required to pass the examination set forth in Section 1375.150.
- d) The Department, upon recommendation of the Board, has determined that the individuals who hold a certification from the following groups meet the education requirements to be eligible to sit for the examination:
- 1) Clinical Member of the American Association for Marriage and Family Therapy (AAMFT)
  - 2) Fellow or Diplomate of the American Association of Pastoral Counselors (AAPC)
  - 3) Type 73 certificate issued by the Illinois State Board of Education as a School Social Worker, School Counselor or School Psychologist
  - 4) National Certified Counselor (NCC)
- Applicants shall submit a certification from one of the above entities in lieu of the certification of education--in subsection (a)(1). Applicants will need to submit certification of education and proof of experience and pass the examination set forth in Section 1375.150.
- e) The Department, upon recommendation of the Board, has determined that individuals who hold certification as a from Certified Rehabilitation Counselor (CRC) meet the examination requirements set forth in Section 1375.150 for licensure. Individuals who received a certificate from CRC after 1992 meet the education requirements. Individuals who received a certificate from CRC before 1992 will be required to submit a transcript pursuant to Section 1375.150 in order to evaluate educational requirements. All applicants holding a CRC certificate

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f) shall submit proof of experience.  
When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 22 Ill. Reg. 8480, effective MAY 04 1998)

### Section 1375.110 How to Obtain a Permanent License as a Clinical Professional Counselor After Receiving a Temporary License

Any person holding a temporary license as a clinical professional counselor shall pass an examination specified by the Department to qualify for a permanent license. The examination shall be passed by September 5, 1998, when all temporary licenses expire, regardless of when they were issued.

a) Any person who obtained a temporary clinical professional counselor license will be required to submit proof of an additional one unit of acceptable clinical professional counseling experience obtained after receipt of the temporary license.

1) For the purposes of this Section only, one unit of acceptable experience shall be either:

- A) The equivalent of one year of full-time work experience under the direction of a qualified supervisor; or
- B) The equivalent of 2 years of work experience independent of the direction of a qualified supervisor.

2) The specified experience may be obtained as follows:

- A) One year of experience shall be a maximum of 1680 clock hours obtained in not less than 48 weeks. No more than 1680 clock hours may be counted toward one year of experience. Part time experience shall be counted toward the experience requirement.

B) For purposes of this subsection, qualified supervisors are those individuals who at the time of supervision were master's level or doctoral level counselors (such as, but not limited to, licensed or registered marriage and family therapists, registered art therapists, pastoral counselors, school counselors, school social workers, school psychologists, certified rehabilitation counselors), certified social workers, licensed clinical social workers, licensed clinical psychologists, licensed/registered psychologists, psychiatrists defined in Section 1-121 of the Mental Health and Developmental Disabilities Code or



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licensed clinical professional counselors.

- C) The experience shall have been evaluated by the supervisor as satisfactory.
- D) The unit requirements for this subsection may be satisfied by supervised experience, independent experience or a combination of supervised and independent experience.

3) Experience shall be documented as follows:

- A) Certification of experience signed by the applicant's supervisor; or
- B) Three affidavits from the applicant's colleagues, consultants and supervisors who are familiar with the applicant's work.

- b) To sit for the examination, the applicant shall submit an application form provided by the Department, along with the examination fee to the designated testing service.

- c) Upon notification to the Department by the testing service that the applicant has passed the examination and the submission by the applicant of the required fee set forth in Section 60 of the Act, the permanent clinical professional counselor license shall be issued.

- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 22 Ill. Reg. effective  
MAY 04 1998 8460=)

Section 1375.120 Application for Examination/Permanent Licensure as a Clinical Professional Counselor

- a) Each applicant seeking original licensure under Section 35 of the Act shall file an application with the Department, on forms provided by the Department, at least 90 days prior to an examination date. The application shall include:

- 1) For individuals who graduated or who were enrolled in a program prior to January 1, 1999 On or before December 31, 1998 (individuals who have until January 1, 2003 to complete the educational requirements set forth in Section 1375.140(a)). Otherwise, the applicant will be required to meet the educational requirements set forth in Section 1375.140(b));

A) Either:

- 1) Certification of education from a master's degree program in counseling, rehabilitation counseling or

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psychology from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located regionally accredited institution, or certification of education and an official transcript from a similar master's degree program as defined in Section 1375.140 of this Part and completion of the equivalent of 2 units of acceptable experience (2 years full-time satisfactory supervised employment working as a clinical professional counselor under the direction of a qualified supervisor or 4 years working as a clinical professional counselor independent of the direction of a qualified supervisor subsequent to the degree as defined in Section 1375.100(a)(2) of this Part or a combination of supervised experience and independent experience); or

- ii) Certification of education and an official transcript from a doctoral degree program in counseling, rehabilitation counseling, or psychology from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located or similar degree program as defined in Section 1375.140 of this Part and completion of the equivalent of 2 units of acceptable experience (2 years of full-time satisfactory supervised experience working as a clinical professional counselor under the direction of a qualified supervisor or 4 years working as a clinical professional counselor independent of the direction of a qualified supervisor, as defined in Section 1375.100(a)(2) or a combination of supervised experience and independent experience).

B) Experience shall be documented as follows:

- i) Certification of experience signed by the applicant's supervisor; or
- ii) Three affidavits from the applicant's colleagues, consultants and supervisors who are familiar with the applicant's work.

- 2) For individuals who graduated on or after Beginning January 1, 1999:

- A) Certification of education and an official transcript from a master's degree program in counseling, rehabilitation counseling, or psychology from a regionally accredited college, school or university or similar degree program as defined in Section 1375.140 of this Part and completion of the equivalent of 2 years full-time satisfactory supervised employment or experience working as a clinical professional counselor under the direction of a qualified supervisor,

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subsequent to the degree, as defined in Section 1375.130 of this Part; or

- B) Certification of education and an official transcript from a doctoral degree program in counseling, rehabilitation counseling, or psychology from a regionally accredited college, school or university or similar degree program as defined in Section 1375.140 of this Part and completion of the equivalent of 2 years of full-time satisfactory supervised experience working as a clinical professional counselor under the direction of a qualified supervisor, as defined in Section 10 of the Act, at least one year of which is subsequent to the degree.
- 3) A complete work history since receipt of graduation--from the first qualifying degree program (master's or doctoral degree).
- 4) The fee required in Section 60(a) of the Act.
- 5) Certification of licensure, on forms provided by the Department, from the state or territory of the United States in which an applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance in that jurisdiction;
- B) A description of the examination in that jurisdiction; and
- C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

The Department, upon recommendation of the Board, has determined that individuals who hold the certification of a Certified Clinical Mental Health Counselor (CCMHC) based on examination meet the education, experience and examination requirements for licensure as a Clinical Professional Counselor.

- b) The Department, upon recommendation of the Board, has determined that, prior to January 1, 1999, individuals who hold a Certified Master AODA Counselor (CMADC) certification from the Illinois Alcohol and Other Drug Abuse Professional Certification Association (IODAPCA) meet the education and experience requirements to be eligible to sit for the examination. An applicant shall submit a CMADC certification from IODAPCA in lieu of the documents required in subsections (a)(1) and (2). Applicants will be required to pass the examination set forth in Section 1375.150. After December 31, 1998 individuals shall be required to submit certification of education and experience as set forth in subsection (a)(2) above.

- c) The Department, upon recommendation of the Board, has determined that the individuals who hold a certification from the following groups meet the education requirements to be eligible to sit for the examination.
- 1) Clinical Member of the American Association for Marriage and Family Therapy (AAMFT)

- d) The Department, upon recommendation of the Board, has determined that the individuals who hold a certification from the following groups meet the education requirements to be eligible to sit for the examination.

- 1) Clinical Member of the American Association for Marriage and Family Therapy (AAMFT)

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- 2) Fellow or Diplomate of the American Association of Pastoral Counselors (AAPC)
- 3) Type 73 certificate issued by the Illinois State Board of Education as a School Counselor, School Social Worker or School Social Psychologist

An applicant shall submit a current the certification from one of the above entities in lieu of the documents required for education. The applicant shall submit proof of experience and pass the examination set forth in Section 1375.150.

- e) The Department, upon recommendation of the Board, has determined that individuals who hold certification--from--Certified--Rehabilitation Counselor--(ERC)--meet the education requirements for licensure--Proof of experience and education would need to be submitted--Individuals who received their Certified Rehabilitation Counselor or (CRC) ERC certification after January 1992 have been determined to meet the education and examination requirements. Individuals who received a CRC certificate before 1992 will be required to submit a transcript pursuant to Section 1375.150 in order to evaluate educational requirements. All applicants holding a CRC certificate shall submit proof of experience would need to be submitted.

- f) An applicant may begin gaining the required experience upon completion of the degree requirements. Verification of the date of completion of the degree, when different from the date of graduation, shall be certified to the Department by the applicant's educational institution.

g) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: ~~Amended~~ 22 Ill. Reg. 8480, effective May 14 1998)

Section 1375.130 Professional Experience for Licensure as a Clinical Professional Counselor Beginning January 1, 1999

Beginning January 1, 1999, professional counseling experience shall be obtained as set forth below:

- a) A person holding a master's degree in counseling, rehabilitation counseling, psychology or similar degree program shall have completed the equivalent of 2 years of full-time satisfactory supervised experience working as a clinical professional counselor under the direction of a qualified supervisor subsequent to the degree.



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- b) A person holding a doctorate in counseling, rehabilitation counseling, psychology or similar degree program shall have completed the equivalent of 2 years of full-time satisfactory supervised experience working as a clinical professional counselor under the direction of a qualified supervisor at least one year of which is subsequent to the degree. Internships may count toward professional experience.
- c) A qualified supervisor means any person who is a licensed clinical professional counselor, licensed clinical social worker, licensed clinical psychologist, or psychiatrist as defined in Section 1-121 of the Mental Health and Developmental Disabilities Code. If supervision took place outside Illinois, the supervisor shall be a master's level or doctoral level counselor engaged in clinical professional counseling. The supervisor shall hold a license if the jurisdiction in which the supervisor practices requires licensure.
- d) One year of experience shall be a maximum of 1680 clock hours obtained in not less than 48 weeks including 960 clock hours of direct face to face service to clients. Part time experience shall be counted toward the experience requirement.
- e) For purposes of this Section, supervised experience shall be experience obtained under a qualified supervisor as defined in Section 10 of the Act and entail the provision of professional counseling and mental health services defined in Section 10 of the Act.
- 1) The supervisor shall have met with the applicant at least one hour each week. The supervision means the review of counseling and case management.
- 2) The experience shall have been evaluated by the supervisor as satisfactory or better.
- f) Face to face supervision does not include mail, telefax, phone or other such electronic devices.
- g) Acceptable modes for supervision of direct client contact are as follows:
- 1) Individual supervision: the supervisory session is conducted by an approved supervisor with one or two counselors present.
- 2) Group supervision: the supervisory session is conducted by an approved supervisor with no more than 5 counselors present.
- h) The counseling activities must be performed pursuant to the supervisor's order, control, oversight, guidance and full professional responsibility.
- i) A qualified supervisor may be provided at the applicant's place of work or may be hired by the applicant to provide supervision.
- j) The following activities are not acceptable clinical supervision:
- 1) Peer supervision.
  - 2) Administrative supervision. For example, clinical practice performed under administrative rather than clinical supervision of an institutional director or executive.
  - 3) A primarily didactic process wherein techniques or procedures are taught in a classroom, workshop or seminar.
  - 4) Consultation, staff development, or orientation to a field or

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program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

- k) An applicant may begin gaining the required experience upon completion of the degree requirements. Verification of the date of completion of the degree, when different from the date of graduation, shall be certified to the Department by the applicant's educational institution.

(Source: Amended 22 Ill. Reg. 3480, effective MAY 04 1998)

## Section 1375.140 Approved Clinical Professional Counseling Programs

- a) On or before December 31, 1998, the Department, upon recommendation of the Board, shall approve similar degree programs that meet the following requirements:

- 1) Master's degrees shall be from approved-by a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located. regionally-accredited institution-of-higher-education. Doctoral degrees shall be accredited by an accrediting agency recognized by the U.S. Department of Education.
- 2) The program shall be 2 academic years and shall require an individual to complete a minimum of 30 semester hours or equivalent quarter hours in any of the following 10 core areas:

- A) Human Growth and Development and Maladaptive Behavior
- B) Counseling Theory
- C) Counseling Techniques
- D) Group Dynamics, Processing and Counseling
- E) Appraisal of Individuals
- F) Research and Evaluation
- G) Professional, Legal and Ethical Responsibilities relating to professional counseling, especially as related to Illinois law
- H) Social and Cultural Foundations
- I) Lifestyle and Career Development
- J) Practicum

- b) Beginning January 1, 1999, the Department shall, upon the recommendation of the Professional Counselor Examining and Disciplinary Board, approve counseling, rehabilitation counseling, psychology or similar degree programs at the master's or doctoral level if the program meets the following requirements:

- 1) The institution is a regionally accredited institution of higher education. Doctoral degrees shall be accredited by an accrediting agency recognized by the U.S. Department of Education.
- 2) The programs, wherever they may be administratively housed, must



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be clearly identified and labeled as offering counseling, rehabilitation counseling or psychology programs. Such a program must specify in institutional catalogues and brochures its intent to educate and train counselors.

3) The program is an organizational entity within the institution.

4) The program has an integrated, organized sequence of study.

5) The program must be 2 academic years in length and require an individual to complete a minimum of 48 semester hours or equivalent quarter hours with a minimum of one course in each of the following areas described in more detail in Appendix A of this Part:

- A) Human Growth and Development
- B) Counseling Theory
- C) Counseling Techniques
- D) Group Dynamics, Processing and Counseling
- E) Appraisal of Individuals
- F) Research and Evaluation
- G) Professional, Legal and Ethical Responsibilities relating to professional counseling, especially as related to Illinois law

H) Social and Cultural Foundations

I) Lifestyle and Career Development

J) Practicum/Internship

K) Substance Abuse

L) Maladaptive Behavior and Psychopathology

M) Family Dynamics.

6) The program has faculty responsible for the program and has a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have degrees in their area(s) of teaching from professional colleges and institutions.

7) The program has an identifiable body of students who are matriculated in that program for a degree.

8) The program has a one year residence. Residence requires interaction with faculty and other matriculated students. One year's residence is defined as 24 semester hours taken on a full-time or part-time basis at the institution accumulated within the time frame and course of study of the program.

c) Reevaluation of an Approved Program

1) The Department may reevaluate any approved program at any time if it has reason to believe that the program has failed to continue to satisfy the minimum requirements of this Section or that its decision was based upon false, deceptive or incomplete information.

2) A program whose approval is being reevaluated by the Committee shall be given at least 15 days written notice prior to any recommendation by the Board and may either submit written comments or request a hearing before the Board.

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d) For the purposes of this Section, course shall be defined as an integrated, organized course of study that encompasses a minimum of one school semester or equivalent hours term. No student designed courses, independent study courses, workshops or correspondence courses may be used to satisfy the core courses.

e) The Department, upon recommendation of the Board, has determined that all master's degree and doctoral programs in professional counseling that are accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP), the Council on Rehabilitation Education (CORE) and doctoral programs in psychology approved by the American Psychological Association and the Council for the National Registry of Health Service Providers are approved programs.

f) Individual Program Requirements

1) Individuals applying for licensure as a clinical professional counselor who have not graduated from a master's or doctoral program approved by the Department shall submit their transcripts and program materials to the Department for evaluation by the Board to determine if they meet the requirements of this Section.

2) Individuals applying for licensure above who are deficient in any of the content areas set forth in subsection (b)(5) of this Section may complete any deficiencies one or all of these courses in an approved counseling, rehabilitation counseling or psychology program. The applicant will be required to submit proof to the Department that he or she has passed such a course(s) and/or the experience. Proof shall include, but not be limited to, curriculum, practicum, and program materials, internship handbook and course materials.

3) Individuals who are admitted to a degree program prior to January 1, 1999 have until January 1, 2003 to meet the educational requirements set forth in subsection (a) of this Section. After that date the applicant will be required to meet the curriculum requirements set forth in subsection (b) of this Section.

(Source: Amended at 22 Ill. Reg. 8460, effective MAY 04 1998)

## Section 1375.150 Examination - Clinical Professional Counselor

a) Prior to January 1, 1999 September--57--1998, the examination for licensure as a clinical professional counselor shall be the National Clinical Mental Health Counseling Examination (NCMHCE).

b) After December 31 September-5, 1998 the examination for licensure as a clinical professional counselor shall be the National Counseling Examination (the Examination) of the National Board for Clinical Certified Counselors (NBCC) and the National Certified Mental Health Counseling Examination.

c) The passing score on the examination shall be the passing score established by the testing entity.

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- d) The Department also shall accept passage of the Certified Rehabilitation Counselor Examination of the Commission on Rehabilitation Counselor Certification (CRCC).

(Source: Amended at 22 Ill. Reg. 84 60 = -, effective MAY 04 1998)

## Section 1375.160 Endorsement - Clinical Professional Counselor

- a) Each applicant seeking licensure as a clinical professional counselor under Section 70 of the Act shall file an application with the Department on forms provided by the Department. The application shall include:

1) For individuals who graduated prior to January 1, 1999 ~~on or before December 31, 1998~~:

- A) Certification of education from a master's degree in counseling, rehabilitation counseling or psychology from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located ~~regionally-accredited institution~~, or certification of education and an official transcript from a similar master's degree program as defined in Section 1375.140 of this Part and completion of the equivalent of 2 units of acceptable experience (2 years full-time satisfactory supervised employment working as a clinical professional counselor under the ~~direction~~ director of a qualified supervisor or 4 years working as a clinical professional counselor independent of the direction of a qualified supervisor), subsequent to the degree, as defined in Section 1375.100(a)(2) of this Part) or a combination of the supervised experience and independent experience; or
- B) Certification of education and an official transcript from a doctoral degree in counseling, rehabilitation counseling, psychology or similar degree program as defined in Section 1375.140 of this Part and completion of the equivalent of 2 units of acceptable experience (2 years of full-time satisfactory supervised experience working as a clinical professional counselor under the direction director of a qualified supervisor or 4 years working as a clinical professional counselor independent of the direction of a qualified supervisor, as defined in Section 1375.100(a)(2)) or a combination of the supervised experience and independent experience.

- 2) Applicants who graduated on or after Beginning January 1, 1999:
- A) Certification of education and an official transcript from a master's degree program in counseling, or rehabilitation counseling, psychology from a college, university or school regionally accredited by the educational governing authority

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in the jurisdiction in which it is located or similar degree program as defined in Section 1375.140 of this Part and completion of the equivalent of 2 years full-time satisfactory supervised employment or experience working as a clinical professional counselor under the direction of a qualified supervisor, subsequent to the degree, as defined in Section 1375.130 of this Part; or

B) Certification of education and an official transcript from a doctoral degree program in counseling, rehabilitation counseling, or psychology from a college, university or school regionally accredited by the educational governing authority in the jurisdiction in which it is located or similar degree program as defined in Section 1375.140 of this Part and completion of the equivalent of 2 years of full-time satisfactory supervised experience working as a clinical professional counselor under the direction of a qualified supervisor, as defined in Section 10 of the Act, at least one year of which is subsequent to the degree.

- 3) A complete work history since receipt of the master's or doctorate degree.
- 4) Successful completion of the examinations ~~clinical--professional counseling--examination--set--forth~~ in accordance with Section 1375.150 of this Part.
- 5) The required fee set forth in Section 60(1) of the Act.
- 6) Certification of licensure, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance in that jurisdiction;
- B) A description of the examination in that jurisdiction; and
- C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
- b) The Department, upon recommendation of the Professional Counselor Licensing and Disciplinary Board (the Board), shall issue a license if a review of the application indicates that the applicant ~~application~~ meets all the requirements of this Part and the Act ~~set--forth--in subsections (a)(1)-(2) or (2)-(4) above~~. 84 60 = -

(Source: Amended MAY 04 1998 22 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1375.170 Restoration - Clinical Professional Counselor

- a) Any clinical professional counselor whose license has expired or has been placed on inactive status for 5 years or less may have the



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license restored by paying the fees required by Section 60(c) of the Act. Individuals restoring after March 31, 1999 will be required to submit proof of having met the continuing education requirements pursuant to Section 1375.220.

- b) Any person seeking restoration of a license that has been expired or placed on inactive status for more than 5 years shall file an application, on forms supplied by the Department, together with the fee required by Section 60(d) of the Act. Individuals restoring after March 31, 1999 will be required to submit proof of having met the continuing education requirements pursuant to Section 1375.220. The applicant shall also submit either:

- 1) Certification of active practice in another jurisdiction. Such certification shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice; or
- 2) An affidavit attesting to military service as provided in Section 60(d) of the Act; or
- 3) Proof of passage of the ~~National-Counselor-Examination (NCE)~~, the Certified Rehabilitation Counselor (CRC) examination Examination or the Certified Clinical Mental Health Counselor (CCMHC) examination during the period the license was lapsed or on inactive status.

- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department because of a lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration of a license shall be required to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information. Upon recommendation of the Board and approval by the Department, an applicant shall have the license restored.

(Source: MAY 04 1998 22 Ill. Reg. 84 60 =, effective

SUBPART C: GENERAL

## Section 1375.200 Renewals

- a) The first renewal period for licensure under the Act shall be March 31, 1997. Thereafter, every license issued under the Act shall expire on March 31 of odd numbered years. The holder of a license may renew such license during the month preceding the expiration date by paying the fee set forth in Section 60(d) of the Act. For the March 31, 1999 renewal, a licensee will be required to complete 12 hours of

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continuing education in accordance with Section 1375.220. Beginning with the March 31, 2001 renewal and every renewal thereafter, in order to renew a license, a licensee shall be required to complete 30 hours of continuing education in accordance with Section 1375.220.

- b) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.
- c) Practicing or offering to practice on a license that has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 80 of the Act.

(Source: Amended at 22 Ill. Reg. 84 60 =, effective MAY 04 1998)

## Section 1375.220 Continuing Education

## a) Continuing Education Hours Requirements

- 1) For the March 31, 1999 renewal a licensee will be required to complete 12 hours of continuing education. Beginning with the March 31, 2001 renewal and every renewal thereafter, in order to renew a license, a licensee shall be required to complete 30 hours of continuing education.

- 2) A prerenewal period is the 24 months preceding March 31 of each odd-numbered year.

- 3) CE requirements shall be the same for licensed professional counselors and licensed clinical professional counselors.

- 4) One CE hour shall equal one clock hour of attendance. After completion of the initial CE hour, credit may be given in one-half hour increments.

- 5) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.

- 6) Professional counselors or clinical professional counselors licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.

- 7) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.

## b) Approved Continuing Education (CE)

- 1) CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at or participation in a program or course (program) that is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c) below, except for those activities provided in subsections (b)(2), (3) and (4) below.

- 2) A maximum of 10 CE credits per prerenewal period may be earned for completion of a correspondence course that is offered by an



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approved sponsor who meets the requirements set forth in subsection (c) below. Each correspondence course shall include an examination.

3) CE credit may be earned through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of professional counseling related courses that are a part of the curriculum of a college, university or graduate school. Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.

4) CE credit may be earned for verified teaching in the field of counseling in an accredited college, university or graduate school and/or as an instructor of continuing education programs given by approved sponsors. Credit will be applied at the rate of 1.5 hours for every hour taught and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations of the same program). A maximum of 10 hours of CE credit may be obtained in this category per renewal period.

5) CE credit may be earned for authoring papers, publications, dissertations or books and for preparing presentations and exhibits in the field of counseling. The preparation of each published paper, book chapter or professional presentation dealing with professional counseling or clinical professional counseling may be claimed as 5 hours of credit. A presentation must be before an audience of professional counselors. Five credit hours may be claimed for only the first time the information is published or presented.

6) A maximum of 8 hours of CE credit may be earned per renewal period for supervision which is received on a regular basis with a set agenda. Supervision credit may be not earned for supervision provided to others. Supervision shall be documented with a letter from the supervisor indicating the start and end dates in which the supervision occurred, the site where supervision was provided, the number of hours of participation and the name and license number of the supervisor. The letter shall be signed by the supervisor.

7) A maximum of 6 hours of CE credit may be earned per renewal period for leadership activities. Such activities include, but are not limited to, officer of a state or national counseling organization; editor of a professional counseling journal; member of a national counselor certification board; member of a national ethics disciplinary review committee; chair of a major counseling conference or convention; active member of a counseling committee producing a substantial written product. The leadership shall be documented in a letter of confirmation on the organization's letterhead and shall include the start and end dates of

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leadership, the name of the organization and the position held.

c) Approved CE Sponsors and Programs

1) Sponsor, as used in this Section, shall mean:

- A) National Board for Certified Counselors or its affiliates;
- B) American Counseling Association or its affiliates;
- C) Commission on Rehabilitation Counselor or its affiliates;
- D) American Association for Marriage and Family Therapy or its affiliates;
- E) Employee Assistance Professional Association (EAPA) and Employee Assistance Society of North America (EASNA) or its affiliates;
- F) Any other accredited school, college or university, State agency, or any other person, firm, or association that has been approved and authorized by the Department pursuant to subsection (c)(2) of this Section to coordinate and present continuing education courses and programs.

2) An entity seeking approval as a CE sponsor shall submit an application, on forms supplied by the Department, along with a \$500 application fee. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The application shall include:

A) Certification:

- i) That all programs offered by the sponsor for CE credit shall comply with the criteria in subsection (c)(3) below and all other criteria in this Section;
- ii) That the sponsor shall be responsible for verifying full-time continuous attendance at each program and provide a certificate of attendance as set forth in subsection (c)(9) below;
- iii) That, upon request by the Department, the sponsor shall submit evidence (e.g., certificate of attendance or course material) as is necessary to establish compliance with this Section. Evidence shall be required when the Department has reason to believe that there is not full compliance with the statute and this part and that this information is necessary to ensure compliance;
- iv) That each sponsor shall submit to the Department written notice of program offerings, including program offerings of subcontractors, 30 days prior to course dates. Notice shall include the description, location, date and time of the program to be offered; a copy of a sample program with faculty, course materials and syllabi.

3) All programs shall:

- A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of professional counseling or

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Clinical professional counseling:

- B) Foster the enhancement of general or specialized counseling or clinical counseling practice and values;
  - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
  - D) Specify the course objectives, course content and teaching methods to be used; and
  - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.
- 4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.
- 5) An approved sponsor may subcontract with individuals and organizations to provide approved programs. All advertising, promotional materials, and certificates of attendance must identify the licensed sponsor and the sponsor's license number. The present or of the program may also be identified, but should be identified as a presenter. When a licensed sponsor subcontracts with a presenter, the licensed sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.
- 6) All programs given by approved sponsors shall be open to all licensed professional counselors and licensed clinical professional counselors and not be limited to members of a single organization or group.
- 7) To maintain approval as a sponsor pursuant to subsection (c)(2) above, each shall submit to the Department by March 30 of each odd-numbered year a renewal application, a \$250 fee and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given by the sponsor and by any subcontractor.
- 8) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:
- A) The name, address and license number of the sponsor;
  - B) The name and address of the participant;
  - C) A brief statement of the subject matter;
  - D) The number of hours attended in each program;
  - E) The date and place of the program; and
  - F) The signature of the sponsor.
- 9) The sponsor shall maintain attendance records for not less than 5

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years.

- 10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
  - 11) Upon the failure of a sponsor to comply with any of the requirements of this Section, the Department, after notice to the sponsor and hearing before and recommendation by the Board (see 58 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Department receives assurances of compliance with this Section.
  - 12) Notwithstanding any other provision of this Section, the Department or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.
- d) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b) above.
  - 2) The Department may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Department's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.
  - 3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
- e) Continuing Education Earned in Other Jurisdictions
- 1) If a licensee has earned or is seeking CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, prior to participation in the program or prior to 90 days after expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.
  - 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$25 processing fee plus a \$50 per CE hour late fee not to exceed \$300. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.



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f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the Department shall restore the license upon payment of the required fee as provided in Section 13(4) and (5) of the Act.

g) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Department a renewal application along with the required fee set forth in Section 13(3) of the Act, a statement setting forth the facts concerning noncompliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Department, upon the written recommendation of the Board, finds, from such affidavit or any other evidence submitted, that extreme hardship has been shown for granting a waiver, the Department shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable pre renewal period because of:

- A) Full-time service in the armed forces of the United States of America during a substantial part of the pre renewal period;
- B) An incapacitating illness documented by a statement from a currently licensed physician;
- C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
- D) Any other similar extenuating circumstances.

3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Department.

(Source: Added at 22 Ill. Reg. effective MAY 04 1998 8460)

Section 1375.225 Unprofessional Conduct

The Department may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action, based upon its finding of unethical, unauthorized, or unprofessional conduct within the meaning of Section 80 of the Act, which is interpreted to include, but is not limited to, the following acts or practices:

a) Counseling Relationships

1) Practicing, condoning, facilitating or collaborating with any form of discrimination. The counselor shall act to prevent and

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eliminate discrimination against any person or group on the basis of race, color, sex, sexual orientation, age, religion, national origin, marital status, political belief, mental or physical handicap, or any other preference or personal characteristic, condition or status.

- 2) Engaging in any action that violates or diminishes the civil or legal rights of clients.
  - 3) Engaging in the sexual exploitation of clients, students or supervisees.
  - 4) Engaging in or condoning sexual harassment that is defined as deliberate or repeated comments, gestures or physical contacts of a sexual nature.
  - 5) Bringing personal or professional biases into the counseling relationship. Through an awareness of the impact of stereotyping and discrimination (i.e., biases based on age, disability, ethnicity, gender, religion, or sexual preference), counselors guard the individual rights and personal dignity of the client in the counseling relationship.
  - 6) Engaging in any type of sexual intimacies with clients. Counselors shall not provide counseling services to persons with whom they have had a sexual relationship.
  - 7) Engaging in sexual intimacies with former clients prior to two years after termination of the counselor/client relationship.
  - 8) Failing to offer all pertinent facts regarding services rendered to the client prior to administration of professional services. The purpose of informed consent is to insure a client's complete access to information pertaining to professional services. Examples include, but are not limited to, fees for services, length of treatment and utilization of consultants. The client's signature indicating receipt of pertinent information is strongly encouraged.
- b) Confidentiality
- 1) Failing to inform clients at the onset of the counseling relationship of the limits of confidentiality. These limitations include, but are not limited to: limitations mandated by the law, the clear and immediate danger to oneself or others, when the counselor is a defendant in a civil, criminal or disciplinary action arising from the counseling.
  - 2) Revealing facts, data or information relating to a client or examinee, except as allowed under Section 75 of the Act or under the Mental Health and Developmental Disabilities Confidentiality Act or any other federal or State laws pertaining to confidentiality.
  - 3) Failing to take appropriate steps to protect the privacy of a client and avoid unnecessary disclosures of confidential information. The right to privacy belongs to clients and may be waived. A written waiver shall be signed by the client and the information revealed shall be in accordance with the terms of the



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## waiver.

- c) Scope of Practice/Professional Responsibility
- 1) Performing, or pretending to be able to perform, professional services beyond one's scope of practice and one's competency.
  - 2) Failing to refer an individual with whom the counselor has a relationship.
  - 3) Failing to inform clients of the use of all experimental methods of treatment; the safety precautions shall be adhered to by the counselor.
  - 4) Failing to establish and maintain client records.
  - 5) Advertising shall not be deceptive, misleading or false. Counselors should claim or imply only professional credentials possessed and are responsible for correcting any misrepresentations of their credentials by others. Professional credentials include highest relevant degrees, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, professional membership, or any other credential that might indicate to the public specialized knowledge or expertise in professional counseling.
  - 6) Submission of fraudulent claims for services to any person or entity including, but not limited to, health insurance companies or health service plans or third party payors.
  - 7) Knowingly providing services to a client when the counselor's ability to practice is impaired. Causes of impairment may include, but are not limited to, the abuse of mood altering chemicals and physical or mental problems; offering professional services when the counselor's personal problems or conflicts may harm a client or others.

d) Supervision

- 1) Permitting a trainee or intern under his/her supervision or control to perform, or permitting the trainee or intern to hold himself or herself out as competent to perform, professional services beyond the trainee's or intern's level of education, training and/or experience.
- 2) Allowing a trainee to violate the rights of clients, permitting a trainee to violate confidentiality standards, or failing to ensure that the client is informed that he/she is being treated by a trainee.
- 3) Participating in any form of sexual contact with supervisees. Dual relationships with supervisees that might impair the supervisor's objectivity and professional judgment should be avoided and/or the supervisory relationship terminated.

- e) Evaluation, Assessment and Interpretation
- Different tests demand different levels of competence for administration, scoring and interpretation. Members must recognize the limits of their competence and perform only those functions for which they are prepared. In particular, members using computer-based

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test interpretations must be trained in the concept being measured and the specific instrument being used prior to using this type of computer application.

- f) Failing to inform prospective research subjects or their authorized representative fully of potential serious after effects of the research or failing to remove the after effects as soon as the design of the research permits.

- g) The Department hereby incorporates by reference "The American Counseling Association Code of Ethics and Standards of Practice", April 1995, approved by the American Counseling Association, 5999 Stevenson Avenue, Alexandria, Virginia 22304, with no later amendments or editions.

(Source: Added MAY 04 1998 22 Ill. Reg. 8460, effective

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## Section 1375.APPENDIX A Course Descriptions

The following counselor education course content areas are defined and subject areas outlined; however, this is not an all inclusive list and many other courses may fall within each of the core content areas.

- a) Human Growth and Development: Courses in this area cover one or more of the various stages of the human growth cycle and include information about theories of development or about various aspects of development such as personality development, social development, or learning theory. Also included are psychological, sociological, and physiological approaches. Examples of acceptable courses include, but are not limited to, Developmental Psychology, Child Psychology, Child Development, Adolescent Psychology, Adolescent Development, Personality Theory, Learning Theory, Counseling in the Life Span, Medical Aspects of Disability, Developmental Disabilities, Behavioral Analysis in Rehabilitation.
- b) Counseling Theory: Courses in this area cover the major theories and techniques of counseling and psychotherapy including, but not limited to, rational-emotive therapy, behavior therapy, client-centered counseling, psychodynamic theory, etc. Examples of acceptable courses include, but are not limited to, Counseling Methods, Theories of Counseling, Introduction to Psychotherapy, Methods of Psychotherapy. These courses should be general theory courses; a course devoted to one type of therapy would be a Counseling Techniques core course.
- c) Counseling Techniques: Courses in this area cover the theoretical foundations and professional skill training that enable the helper to understand the client's problems more fully and accurately and to intervene effectively. Examples of acceptable courses include, but are not limited to, Family Counseling, Marital Counseling, Crisis Counseling, Counselor Interviewing Skills, Pre-Practicum in Rehabilitation Counseling, Introduction to Rehabilitation Counseling, Substance Abuse Counseling, Stress Management, etc.
- d) Group Dynamics, Processing and Counseling: Courses in this area teach the theories, principles and techniques of doing counseling or psychotherapy with groups of people. Examples of acceptable courses include, but are not limited to, Group Counseling, Group Therapy, Group Dynamics, Group Process, Theories of Group Practice, etc.
- e) Appraisal of Individuals: Courses in this area cover assessment of the various attributes of a person, including formal measures such as standardized tests as well as informal measures such as observations, interviews, rating scales. Examples of acceptable courses include, but are not limited to, Individual Appraisal, Individual Inventory, Group Testing, Individual Intelligence Testing, Personality

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Assessment, Introduction to Psychological Measurement, Tests and Measurements, Measurement for Guidance, etc.

- f) Research and Evaluation: Courses in this area cover principles, methods, techniques and tools used in performing research in counseling. Examples of acceptable courses include, but are not limited to, Methods of Research, Statistics, Research Design, Research in Counseling, Research Techniques, etc.
- g) Professional, Legal and Ethical Responsibilities, Especially as Related to Illinois Law: Courses in this area introduce the student to the field of counseling, covering such areas as professionalism, legal issues and responsibilities, and ethics. Examples of acceptable courses include, but are not limited to, Ethics and Legal Issues in Counseling, Ethics and Legal Issues in Psychology, Ethics and Legal Issues in Psychotherapy, Ethics and Legal Issues in Rehabilitation Counseling, etc.
- h) Social and Cultural Foundations: Courses in this area cover topics such as aging, ethnicity, women's issues, urban and rural societies, population patterns, cultural mores, and differing life patterns. Culture and social class present significant considerations for counselors when the counseling relationship is different due to socialization acquired in distinct cultural, subcultural, racial-cultural or socioeconomic environments. Examples of acceptable courses include, but are not limited to, Multicultural Counseling, Psychology of Women, Counseling the Aged, Counseling with Special Populations, Social Psychology, Cultural Differences in Counseling (or Psychotherapy), Psychosocial Aspects of Disability, Somatopsychology of Disability, Psychological Aspects of Disability, etc.
- i) Lifestyle and Career Development: Courses in this area cover the lifelong processes and the influences upon them that lead to work values, occupational choices, creation of a career pattern, decision-making style, integration of roles, self- and career-identity and patterns of work adjustment. This area studies concepts about how career development unfolds. Examples of acceptable courses include, but are not limited to, Career Guidance, Career Counseling, Career Development, Career Information, Educational and Vocational Information, Theories of Vocational Choice, Theories of Vocational Counseling, Work Adjustment and Placement, etc.
- j) Practicum: Provides practical experience in counseling for the purpose of developing individual counseling skills and for developing group counseling skills. This course should include a minimum of 100 clock hours on-site, with a minimum of 40 hours of direct client contact. These experiences allow students to perform, on a limited basis, some of the counseling activities that a regularly employed Licensed Clinical Professional Counselor would be expected to perform. This should not be confused with the internship requirement.
- k) Internship: An internship should provide direct client experience in both individual counseling and group work, as well as an opportunity



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for the student to become familiar with a variety of professional activities other than direct service. It should provide an opportunity for a student to perform, under supervision, a variety of activities that a clinical professional counselor would be expected to perform. The internship should include a minimum of 600 clock hours with a minimum of 1 hour per week of individual supervision.

- l) Counseling Education: Courses in this area cover an understanding of all aspects of professional functioning including history, roles, organizational structures and credentialing. Examples of acceptable courses include, but are not limited to, The Counseling Profession, Professional Orientation.

- m) Counseling Supervision: Courses in this area cover the theory and practice of counselor supervision. Examples of acceptable courses include, but are not limited to, Principles and Practices of Supervision, Seminar in Supervision, Staff Development and Supervision, organization and administration of career counseling programs, administration of student personnel services.

- n) Family Dynamics: Courses in this area cover family systems theory and its application, preventive approaches for working with families, specific problems that impede family function. Examples of acceptable courses include, but are not limited to, Introduction to Family Therapy, Societal Trends and Related Treatment Issues, Family Systems Theory, Family Dynamics.

- o) Psychopathology and Maladaptive Behavior: Courses in this area cover general principles of etiology, diagnosis, treatment and prevention of mental and emotional disorders and dysfunctional behavior, specific models and methods for assessing mental status, identification of abnormal, deviant or psychopathological behavior and the interpretation of findings in current diagnostic categories. Examples of acceptable courses include, but are not limited to, Abnormal Psychology, Psychopathology, Principles of Psychiatric Rehabilitation, Mental Health Rehabilitation Counseling, Psychosocial Aspects of Disability and Rehabilitation of the Mentally Ill.

- p) Substance Abuse: Courses in this area cover chemical, psychological and social treatment aspects of drug use, abuse and dependency, effects on the family, treatment procedures, and diagnostic assessment and intervention skills. Examples of acceptable courses include, but are not limited to, substance abuse counseling, psychology of drug addition.

- q) Counseling Administration: Courses in this area cover theories and models of organizational behavior and consultation that include planning and evaluation of community/higher education programs, theories, models and practice of leadership, organizational management, and program development; methods of and approaches to organizational change, decision making, and conflict resolution. Courses in this area cover, but are not limited to, Counseling Administration, Administrative Practice in Higher Education.

(Source: Added at 22 Ill. Reg. 8460=, effective MAY 04 1998)

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(Source: Added at 22 Ill. Reg. 8460=, effective MAY 04 1998)



## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Medical Assistance Programs2) Code Citation: 89 Ill. Adm. Code 1203) Section Numbers: Adopted Action:

120.11	Amendment
120.31	Amendment
120.64	Amendment
120.73	Amendment
120.75	Amendment
120.380	Amendment
120.381	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]5) Effective Date of Rulemaking: May 1, 19986) Does this rulemaking contain an automatic repeal date? No7) Does this rulemaking contain incorporations by reference? No8) Date Filed in Agency's Principal Office: May 1, 19989) Notice of Proposal Published in Illinois Register: January 9, 199810) Has JCAR issued a Statement of Objections to these rules? No11) Difference(s) between proposal and final version:

The title of Section 120.64 has been changed to "MANG(P)" Eligibility".

The title of Section 120.11 has been changed to "MANG(P) Cases".

Section 120.31

In subsection (a), "eligibility" has been changed to "eligibility".

Section 120.64

In subsection (f), change "post-partum" to "postpartum".

Section 120.73

In the first sentence of subsection (g) the period after Social Security Act has been deleted.

Section 120.75

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In subsection (a), "the SLIB income standard is" has been added after "1998, and a comma has been added after the first occurrence of "FPL"".

In subsection (b), "Section 120.73(f)" has been changed to "Section 120.73(q)".

Section 120.380

In the first sentence of subsection (g), the duplication of the word "the", preceding "property", has been corrected.

No other changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: These amendments to Sections 120.11, 120.31, 120.64, 120.380 and 120.381 provide for increases, which are allowed under the Federal Balanced Budget Act of 1997, in the MANG(P) income standard for pregnant women and children under age 19. For pregnant women and for infants born to Medicaid eligible pregnant women, the MANG(P) income standard is being increased from 133 percent to 200 percent of the current federal poverty level (FPL). For children ages six through 18, the MANG(P) income standard is being increased to 133 percent of the FPL. These changes in the MANG(P) income standards are expected to result in an annual increase in Department expenditures of \$50 million.

The amendments to Section 120.173 and 120.75 are necessary to implement mandatory coverage under Medicaid as required by the Federal Balanced Budget Act of 1997. Beginning January, 1998, the Department will pay the Medicaid Part B premium for those persons who meet existing eligibility requirements and have incomes of at least 120 percent of the federal poverty level (FPL), but less than 135 percent of the FPL. For persons with incomes of at least 135 percent of the FPL, but less than 175 percent of the FPL, the Department will make a monthly payment that is based on a federal formula described in the Social Security Act (U.S.C.1905 (p)(3)(A)(ii)). These new provisions will be funded by a federal allotment. Therefore, it is expected that these amendments to Sections 120.73 and 120.75 will not result in any budgetary changes for the Department.

16) Information and questions regarding these Adopted Amendments shall be directed to:

## DEPARTMENT OF PUBLIC AID

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Joanne Jones  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield Illinois 62763  
217/524-0081

The full text of Adopted Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

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TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER b: ASSISTANCE PROGRAMS

## PART 120

## MEDICAL ASSISTANCE PROGRAMS

## SUBPART A: GENERAL PROVISIONS

## Section

120.1 Incorporation By Reference

## SUBPART B: ASSISTANCE STANDARDS

## Section

120.10 Eligibility For Medical Assistance

120.11 MANG(P) Eligibility Eligibility-for-Medical-Assistance-for--Pregnant Women--and--for--Children--Born--October-17-1983--or--Later--Who--Do--Not Qualify--As--Mandatory--Categorically--Needy--(MANG(P)--Program)

120.12 Healthy Start - Medicaid Presumptive Eligibility Program For Pregnant Women

120.20 MANG(AABD) Income Standard

120.30 MANG(C) Income Standard

120.31 MANG(P) Income Standard

120.40 Exceptions To Use Of MANG Income Standard

120.50 AMI Income Standard (Repealed)

## SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

## Section

120.60 All Cases Other Than Intermediate Care, Skilled Nursing Care, DHS Facilities, DHS Approved Community Based Settings and Pregnant Women and Children Under Age 19 Who Do Not Qualify As Mandatory Categorically Needy

120.61 Cases in Intermediate Care, Skilled Nursing Care and DMHDD - MANG(AABD) and All Other Licensed Medical Facilities

120.62 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings Under 89 Ill. Adm. Code 140.643

120.63 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings

120.64 MANG(P) Cases Pregnant-Women-and-Children--Born--October--17--1983--or--Later--Who--Do--Not--Qualify--As--Mandatory--Categorically--Needy--(MANG(P) Program)

120.65 Department of Mental Health and Developmental Disabilities (DMHDD) Licensed Community - Integrated Living Arrangements

## SUBPART D: SUPPLEMENTARY MEDICAL INSURANCE

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Section  
120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program  
120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)  
120.73 Eligibility for Medical Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB)  
120.74 Qualified Medicare Beneficiary (QMB) Income Standard  
120.75 Specified Low-Income Medicare Beneficiary (SLIB) Income Standards  
120.76 Hospital Insurance Benefits (HIB)

## SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section  
120.80 Recipient Restriction Program

## SUBPART F: MIGRANT MEDICAL PROGRAM

Section  
120.90 Migrant Medical Program  
120.91 Income Standards

## SUBPART G: AID TO THE MEDICALLY INDIGENT

Section  
120.200 Elimination of Aid to the Medically Indigent  
120.208 Client Cooperation (Repealed)  
120.210 Citizenship (Repealed)  
120.211 Residence (Repealed)  
120.212 Age (Repealed)  
120.215 Relationship (Repealed)  
120.216 Living Arrangement (Repealed)  
120.217 Supplemental Payments (Repealed)  
120.218 Institutional Status (Repealed)  
120.224 Foster Care Program (Repealed)  
120.225 Social Security Numbers (Repealed)  
120.230 Unearned Income (Repealed)  
120.235 Exempt Unearned Income (Repealed)  
120.236 Education Benefits (Repealed)  
120.240 Unearned Income In-Kind (Repealed)  
120.245 Earmarked Income (Repealed)  
120.250 Lump Sum Payments and Income Tax Refunds (Repealed)  
120.255 Protected Income (Repealed)  
120.260 Earned Income (Repealed)  
120.261 Budgeting Earned Income (Repealed)  
120.262 Exempt Earned Income (Repealed)  
120.270 Recognized Employment Expenses (Repealed)  
120.271 Income From Work/Study/Training Program (Repealed)

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120.272 Earned Income From Self-Employment (Repealed)  
120.273 Earned Income From Roomer and Boarder (Repealed)  
120.275 Earned Income In-Kind (Repealed)  
120.276 Payments from the Illinois Department of Children and Family Services (Repealed)  
120.280 Assets (Repealed)  
120.281 Exempt Assets (Repealed)  
120.282 Asset Disregards (Repealed)  
120.283 Deferral of Consideration of Assets (Repealed)  
120.284 Spend-down of Assets (AMI) (Repealed)  
120.285 Property Transfers (Repealed)  
120.290 Persons Who May Be Included in the Assistance Unit (Repealed)  
120.295 Payment Levels for AMI (Repealed)

## SUBPART H: MEDICAL ASSISTANCE - NO GRANT

Section  
120.308 Client Cooperation  
120.309 Caretaker Relative  
120.310 Citizenship  
120.311 Residence  
120.312 Age  
120.313 Blind  
120.314 Disabled  
120.315 Relationship  
120.316 Living Arrangements  
120.317 Supplemental Payments  
120.318 Institutional Status  
120.319 Assignment of Rights to Medical Support and Collection of Payment  
120.320 Cooperation in Establishing Paternity and Obtaining Medical Support  
120.321 Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support  
120.322 Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support  
120.323 Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause  
120.324 Health Insurance Premium Payment (HIPP) Program  
120.325 Health Insurance Premium Payment (HIPP) Pilot Program  
120.326 Foster Care Program  
120.327 Social Security Numbers  
120.330 Unearned Income  
120.332 Budgeting Unearned Income  
120.335 Exempt Unearned Income  
120.336 Education Benefits  
120.338 Incentive Allowance  
120.340 Unearned Income In-Kind  
120.342 Court Ordered Child Support Payments of Parent/Step-Parent  
120.345 Earmarked Income



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120.346	Medicaid Qualifying Trusts	Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10082, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983;
120.347	Treatment of Trusts	
120.350	Lump Sum Payments and Income Tax Refunds	
120.355	Protected Income	
120.360	Earned Income	
120.361	Budgeting Earned Income	
120.362	Exempt Earned Income	
120.363	Earned Income Disregard - MANG(C)	
120.364	Earned Income Exemption	
120.366	Exclusion From Earned Income Exemption	
120.370	Recognized Employment Expenses	
120.371	Income From Work/Study/Training Programs	
120.372	Earned Income From Self-Employment	
120.373	Earned Income From Roomer and Boarder	
120.375	Earned Income In Kind	
120.376	Payments from the Illinois Department of Children and Family Services	
120.379	Provisions for the Prevention of Spousal Impoverishment	
120.380	Assets	
120.381	Exempt Assets	
120.382	Asset Disregard	
120.383	Deferral of Consideration of Assets	
120.384	Spend-down of Assets (MANG)	
120.385	Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed)	
120.386	Property Transfers Occurring On or Before August 10, 1993	
120.387	Property Transfers Occurring On or After August 11, 1993	
120.390	Persons Who May Be Included In the Assistance Unit	
120.391	Individuals Under Age 18 Who Do Not Qualify For AFDC/MANG and Children Born October 1, 1983, or Later (MANG(P) Program)	
120.392	Pregnant Women Who Would Not Be Eligible For AFDC/MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy	
120.393	Pregnant Women and Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project	
120.395	Payment Levels for MANG (Repealed)	
120.399	Redetermination of Eligibility	
TABLE A	Value of a Life Estate and Remainder Interest	
TABLE B	Life Expectancy	
AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].		
SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2		

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amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5233, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872.

**SUBPART B: ASSISTANCE STANDARDS**

Section 120.11 MANG(P) Eligibility Eligibility--for--Medicaid--Assistance--for--Pregnant--Women--and--for--Children--Born--October--17--1993--or--Later--Who--Do--Not--Qualify--As--Mandatory--Categorically--Needy--(MANG(P) Program)

- a) Pregnant Women Eligible for MANG(P) who do not qualify as Mandatory Categorically-Needy-MANG(P)-Program  
 1) Eligibility for medical assistance exists for a pregnant woman of any age who does not qualify as mandatory categorically needy (Social Security Act (U.S.C. 1902 (a)(10)(A)(i) and 1905(n)) who



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meets the following eligibility requirements:

- A) cooperation in establishing eligibility as described in Section 120.308;
  - B) residency as described in Section 120.311; and
  - C) whose countable monthly income does not exceed the MANG(P) Income Standard (see Section 120.31).
- 2) The pregnant woman shall be eligible to receive medical assistance until 60 days following the last day of pregnancy. The 60 day medical coverage continues through the last day of the calendar month in which the 60 day period ends. The 60 days medical coverage period shall be provided for all pregnant women determined eligible for medical assistance under subsection (a)(1) of this Section including pregnant women who are no longer pregnant at the time of application because the woman had a miscarriage or an abortion or signed an adoption agreement.
- 3) When a pregnant woman is determined eligible for medical assistance under (a)(1) of this Section, income changes occurring after the eligibility determination are not considered through the 60 day postpartum period following the last day of pregnancy.
- b) Children Under Age 19 Eligible for MANG(P) born-October-17-1983-or-later-who-do-not-qualify-as-Mandatory-Categorically-Needy-(MANG(P) Program)

1) Eligibility for medical assistance exists for children under age 19 born-October-17-1983-or-later who do not qualify as mandatory categorically needy (Social Security Act (U.S.C.1902 (a)(10)(A)(i) and 1905(n)) who meet the following eligibility requirements:

- A) cooperation in establishing eligibility as described in Section 120.308;
  - B) citizenship/alienage status as described in 120.310;
  - C) residency as described in Section 120.311; and
  - D) whose countable monthly income exceeds the MANG(C) or MANG(AABD) income standards (Sections 120.20 and 120.30) but does not exceed the MANG(P) income standard (see Section 120.31).
- 2) Children under age 19 born-October-17-1983-or-later shall be eligible to receive medical assistance under subsection (b)(1) of this Section:
- A) from the date of birth through age 18 1/2; or
  - B) through age 18 1/2 if an application is approved for medical assistance; or
  - C) until countable monthly income exceeds the MANG(P) income standard (see Section 120.31), whichever comes first.
- 3) When the Department becomes aware of the birth of a child or children to a woman determined eligible under subsection (a)(1) of this Section, the child shall be deemed to have applied for medical assistance under subsection (b)(1) of this Section, without written request. The child or children shall be eligible

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to receive medical assistance for the same period of time the mother is receiving medical assistance.

- 4) When the child's mother becomes ineligible for medical assistance under subsection (a) of this Section, the infant retains eligibility for medical assistance until:
  - A) up to age one year;
  - B) through age 18 1/2 if an application is approved for medical assistance;
  - C) countable monthly income exceeds the MANG(P) income standard (see Section 120.31), whichever comes first; or
  - D) if an application is later approved for financial assistance, the child is ineligible for medical assistance under this subsection (b).
- 5) When a child is determined eligible for medical assistance under this subsection (b) and there is a change in income which causes countable monthly income to exceed the MANG(P) income standard (see Section 120.31), the child is ineligible for medical assistance under this subsection (b). Countable income must then be compared to the MANG(C) or MANG(AABD) income standard (see Section 120.20, 120.30) to determine the spend-down amount, if any.

(Source: Amended 1993, 22 Ill. Reg. 8503, effective MAY 01 1993)

## Section 120.31 MANG(P) Income Standard

- a) MANG(P) is available to pregnant women and to children under age 19 born-October-17-1983-or-later who do not qualify as mandatory categorically needy (Social Security Act (U.S.C. 1902(a)(10)(A)(i) and 1905(n))) whose non-exempt countable income does not exceed the MANG(P) income standard. The MANG(P)-income-standard shall be 133% of the current-Federal-Poverty-Bevei-income-Guidelines-as-published annually-in-the-Federal-Register-for-children-through-age-five-(5)-The MANG(P)-income-standard shall be 100% of the current-Federal-Poverty Bevei-income-Guidelines-as-published-annually-in-the-Federal-Register-for-Children-born-October-17-1983-or-later-who-are-older-than-age-five-(5)- If the household's countable monthly income exceeds the appropriate MANG(P) standards standard, eligibility for MANG(P) does not exist. The MANG(P) income standards are as follows:

- 1) The MANG(P) income standard shall be 200 percent of the current Federal Poverty Level Income Guidelines, as published annually in the Federal Register, for pregnant women and for infants born to Medicaid eligible pregnant women.
- 2) The MANG(P) income standard shall be 133 percent of the current Federal Poverty Level Income Guidelines, as published annually in the Federal Register, for infants born to non-Medicaid eligible pregnant women and for children under age 19.



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- b) MANG(P) is available for a pregnant woman, of any age, whose countable monthly income for the household does not exceed the MANG(P) income standard. If the pregnant woman is married and her spouse lives with her or if she has dependent children born before October 17, 1983, her pregnancy does not make her spouse and/or dependent children born before October 17, 1983 or older eligible for MANG(P). The pregnant woman and her spouse's income are combined and compared to the MANG(P) standard for the number of persons in the family even though only the pregnant woman is eligible to receive MANG(P). An unborn child is counted as a family member.
- c) MANG(P) is available for children under age 19 born October 17, 1983 or later whose countable monthly income for the household does not exceed the appropriate MANG(P) income standards standard.
- d) When financial eligibility for MANG(P) is being determined for a child under age 19, born October 17, 1983 or later the household's income is combined and compared to the MANG(P) income standard for the family size, including unborn children.
- e) When financial eligibility for MANG(P) is being determined for a pregnant woman who meets the requirements for MANG(P), income is considered in the following manner:
- 1) Income is considered for the month of application. When eligibility exists for the month of application, MANG(P) coverage is authorized beginning with the month of application. Income changes occurring after the month of application are not considered through the 60 day period following the last day of pregnancy.
  - 2) Income is considered for the month following the month of application when the pregnant woman is income ineligible for the month of application. If eligibility exists for the month following the month of application, MANG(P) coverage is authorized beginning with the month following the month of application. Income changes occurring after the month following the month of application are not considered through the 60 day period following the last day of pregnancy.
  - 3) When the case is income ineligible for the month of application and the month following the month of application, financial eligibility is determined under Sections 120.10 and 120.60.
  - 4) When determining income eligibility for a backdated month (up to three months before the month of application), the client is eligible for medical coverage beginning with the month income at or below the MANG(P) income standard income standard. Income changes occurring after the month of authorization are not considered through the 60 day period following the last day of pregnancy.

(Source: Amended 22 Ill. Reg. 8503, effective MAY 01 1988)

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## SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section 120.64 MANG(P) Cases Pregnant Women and Children Born October 17, 1983 or Later Who Do Not Qualify As Mandatory Category-Really-Needy

- a) The following subsections apply to MANG(P) clients. The eligibility period for a MANG(P) client shall begin with:
- 1) the first day of the month of application; or
  - 2) the first day of any month prior to the month of application if the client so desires up to three months prior to the month of application; or
  - 3) the first day of the month after the month of application; or
  - 4) the first day of a month a pregnant woman and/or child under age 19 born October 17, 1983 or later meets the requirements of Sections 120.11 and 120.31.
- b) The pregnant woman shall be eligible to receive medical assistance until sixty (60) days following the last day of pregnancy. The sixty (60) day medical coverage continues through the last day of the calendar month in which the sixty (60) day period ends. The sixty (60) day medical coverage period shall be provided for all pregnant women determined eligible for medical assistance under Section 120.11(a)(1) above including pregnant women who are no longer pregnant at the time of application because the woman had a miscarriage or an abortion or signed an adoption agreement.
- c) Children shall be eligible to receive medical assistance:
- 1) from the date of birth of October 17, 1983 or later for up to and including age nineteen (19); or
  - 2) up to and including age nineteen (19) if an application is approved for medical assistance; or
  - 3) until countable monthly income exceeds the MANG(P) income standard (see Section 120.31), whichever comes first.
- AGENCY NOTE: A newborn child is automatically eligible to receive medical assistance for the same period of time the mother is receiving medical assistance. Eligibility for the newborn with automatic eligibility shall continue up to age one, without regard to income changes.
- d) Covered services received during the entire eligibility period will be paid by the Department (see 89 Ill. Adm. Code 140.3).
- e) A redetermination of eligibility for MANG(P) will be made every twelve (12) months for children under age 19 born October 17, 1983 or later.
- f) The client is responsible to report any changes that occur during the eligibility period which might affect eligibility for MANG(P). If changes in income or family composition occur which would make the client ineligible for MANG(P), appropriate action shall be taken by the Department, including evaluation of eligibility for other programs or termination of eligibility for medical assistance. Income changes occurring after a pregnant woman is determined eligible for MANG(P) occurring after a pregnant woman is determined eligible for MANG(P)

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coverage are not considered through the 60 day postpartum post-partum period following the last day of pregnancy.

- g) MANG(P) clients shall be eligible without a spend-down obligation amount.
- h) A review of case eligibility for MANG(C) will be conducted for a pregnant woman and continued MANG(P) eligibility for the newborn child will be conducted during the second month of the sixty(60) day extended medical coverage period. If eligible, the case shall be transferred by the Department to the appropriate program without interruption in benefit eligibility. If ineligible, the Department shall notify the client in writing.
- i) A review of case eligibility for TANF MANG(C) will be conducted when a child is determined ineligible for MANG(P). If the child is eligible for TANF MANG(C), the case shall be transferred by the Department without interruption in benefit eligibility. If ineligible, written notification shall be provided to the client.

(Source: Amended at 22 Ill. Reg. 8503, effective MAY 01 1998)

## SUPPORT D: MEDICARE PREMIUMS

## Section 120.73 Eligibility for Medical Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB)

- a) Eligibility for Medicaid payment of Medicare Part B premiums exists for Specified Low-Income Medicare Beneficiaries (SLIBs). A SLIB is an individual who:
- 1) is a beneficiary of Medicare Part A (i.e., Hospital Insurance);
  - 2) meets the general non-financial factors of eligibility for the Medicaid Program (see Sections 120.310, 120.311, 120.319 and 120.325);
  - 3) has countable monthly income which exceeds the Qualified Medicare Beneficiary (QMB) income standard (see Section 120.74), but is less than or equal to the SLIB income standard (see Section 120.75); and
  - 4) has countable assets which do not exceed the QMB asset disregard (see Section 120.382(d)).
- b) When considering Social Security Benefits, the monthly amount to consider for January through the month following the month in which the annual Federal Poverty Level (FPL) amounts are announced will not include the annual Retirement Survivors Disability Insurance (RSDI) Cost of Living Adjustment (COLA). For all other months of the year the full amount of RSDI benefits will be considered.
- c) SLIBs with incomes from 100 percent of the FPL up to 120 percent of the FPL may be eligible for the full range of Medicaid services (see 89 Ill. Adm. Code 140) only if they meet all eligibility requirements for Medicaid (see 89 Ill. Adm. Code 120).

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- d) Individuals with incomes of at least 120 percent of the FPL but less than 175 percent of the FPL, who receive Medicaid benefits, are not eligible for the benefits described in subsection (g) of this Section.
- e) Eligibility for Medicaid Payment of Medicare Part B premiums may be effective up to three months prior to the month of application.
- f) SLIBs are eligible for Medicaid payment of Medicare Part B premiums (see Title XVIII of the Social Security Act) in accordance with Sections 120.70 and 89 Ill. Adm. Code 140.21. Individuals with incomes from 135 percent of the FPL up to 175 percent of the FPL are not eligible for Medicaid payment of Part B Medicare premiums. These persons are only eligible for a monthly payment that is for the portion of Medicare cost sharing described in the Social Security Act (U.S.C. 1905(p)(3)(A)(ii)).

(Source: Amended at 22 Ill. Reg. 8503, effective MAY 01 1998)

## Section 120.75 Specified Low-Income Medicare Beneficiary (SLIB) Income Standards Standard

The SLIB income standards are standard-is equal to a percentage of the then current Federal Poverty Level (FPL) Income Guidelines as published annually in the Federal Register for the size of the household. If the household's countable monthly income (see 89 Ill. Adm. Code 112, 113, 120) exceeds the appropriate SLIB income standard, eligibility for SLIB status does not exist. The applicable percentages are percentage-as follows:

- a) Effective January 5, 1998, the SLIB income standard is at least 100 percent of the FPL, but less than 135 percent of the FPL.
- b) Effective January 5, 1998, persons with incomes that are at least 135 percent of the FPL, but less than 175 percent of the FPL, may receive the special monthly payment described in Section 120.73(f).  
January--December-1993--110%

(Source: Amended at 22 Ill. Reg. 8503, effective MAY 01 1998)

## SUPPORT H: MEDICAL ASSISTANCE - NO GRANT

## Section 120.380 Assets

- a) The value of nonexempt assets shall be considered in determining eligibility for MANG.

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- b) MANG(C) -- Treatment of jointly held assets for TANE APBE MANG shall be treated in the same manner as described in 89 Ill. Adm. Code 112.150.
- c) AABD MANG -- Treatment of jointly held assets for AABD MANG shall be treated in the same manner as described in 89 Ill. Adm. Code 113.140.
- d) MANG(P) - All assets are exempt from consideration in determining MANG(P) eligibility. Treatment of nonexempt jointly-held assets (excess-equity-value-of-motor-vehicle-liquid-assets-such-as-cash-on-hand-or-in-banks-and-savings-institutions--stocks--bonds--savings certificates-and-other-securities) shall be treated in the same manner as described in 89 Ill. Adm. Code 112.150.
- e) Treatment of potential payments from a Medicaid qualifying trust for AABD MANG and APBE MANG(C) shall be treated in the same manner as described in Section 120.346.
- f) Trusts established on or after August 11, 1993, shall be treated in the manner described in Section 120.347.
- g) The value of a life estate shall be determined at the time the life estate in the property is established and at the time the property (for example, assets) is liquidated. In determining the value of a life estate and remainder interest based on the value of the property at the time the life estate is established or on the amount received when the property is liquidated, the Department shall apply the values described in Section 120. Table A. The life estate and remainder interest are based on the age of the person at the time the life estate in the property is established and at the time the property is liquidated and the corresponding values described in Section 120. Table A.

(Source: Amended 01 1998 22 Ill. Reg. 3503 = , effective

## Section 120.381 Exempt Assets

- a) The following assets are exempt from consideration in determining eligibility for MANG(C).
- 1) A home which is the usual residence of the assistance unit.
  - 2) Clothing, personal effects and household furnishings.
  - 3) One automobile if the equity value does not exceed \$1500.
  - 4) The value of the coupon allotment under the Food Stamp Act of 1977 (7 U.S.C. 2017 et seq.)
  - 5) The value of the U.S. Department of Agriculture donated foods (surplus commodities).
  - 6) The value of supplemental food assistance received under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) as amended, and the special food service program for child under the National School Lunch Act, as amended.
  - 7) Donations or benefits from fund raisers held for a seriously ill client providing the client or responsible relative of the client

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- does not have control (for example e-g-r, not available to the client or the responsible relative) over the donations or benefits or the disbursement of the donations or benefits.
- b) AABD MANG-Assets exempt from consideration for AABD MANG shall be the same as those listed in 89 Ill. Adm. Code 113.141.
- c) The following assets are exempt from consideration in determining eligibility for MANG(P)
- 1) one motor vehicle if the equity value does not exceed \$67000.
  - 2) The excess equity value is applied toward the asset-disregard.
- All other assets except for liquid assets such as cash-on-hand-or-in-banks-and-savings-institutions--stocks--bonds--savings certificates-and-other-securities.

(Source: Amended 01 1998 22 Ill. Reg. 3503 = , effective



## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENT(S)

1) Heading of the Part: Certificates of Title, Registration of Vehicles

2) Code Citation: 92 Ill. Adm. Code 1010

3) Section Numbers: Adopted Action:  
1010.190 New Section  
1010.510 Amended

4) Statutory Authority: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/3 and 2-104(b)].

5) Effective Date of Rule: April 28, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporation by reference? No

8) Date filed in Agency's Principal Office: April 28, 1998

9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 2080 (January 28, 1998)

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Differences between proposal and final version: Clarifies that the SOS will return bonds prior to the expiration period at the applicant's request (otherwise bonds will continue to be returned to the applicant at the time of expiration). Additionally, pursuant to statute, the reduced registration fee for motorcycles begins on September 16. Other non-substantive changes were made.

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace an emergency rule amendment currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: Clarifies existing procedures with respect to issuing title and registration without standard ownership documents.

16) Information and questions regarding these adopted amendments shall be directed to:

Carol Sudman  
Assistant Counsel  
Room 298, Howlett Building

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Springfield, IL 62756  
217/785-3094

The full text of the Adopted Rules begins on the next page:

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TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATE

## PART 1010

## CERTIFICATES OF TITLE, REGISTRATION OF VEHICLES

## SUBPART A: DEFINITIONS

Section  
1010.10 Owner--Application of Term  
1010.20 Secretary and Department

## SUBPART B: TITLES

Section  
1010.110 Salvage Certificate--Additional Information Required to Accompany Application for a Certificate of Title for a Rebuilt or a Restored Vehicle Upon Surrendering Salvage Certificate  
1010.120 Salvage Certificate--Assignments and Reassignments  
1010.130 Exclusiveness of Lien on Certificate of Title  
1010.140 Documents Required to Title and Register Imported Vehicles Not Manufactured in Conformity with Federal Emission or Safety Standards  
1010.150 Transferring Certificates of Title Upon the Owner's Death  
1010.160 Repossession of Vehicles by Lienholders and Creditors  
1010.170 Junking Notification  
1010.180 Specially Constructed Vehicles - Defined  
1010.185 Specially Constructed Vehicles - Required Documentation for Title and Registration  
1010.190 Issuance of Title and Registration Without Standard Ownership Document - Bond

## SUBPART C: REGISTRATION

Section  
1010.210 Application for Registration  
1010.220 Vehicles Subject to Registration-Exceptions  
1010.230 Refusing Registration or Certificate of Title  
1010.240 Registration Plates To Be Furnished By The Secretary of State  
1010.250 Applications For Reassignment

## SUBPART D: REVOCATION, SUSPENSION AND CANCELLATION OF REGISTRATION

Section  
1010.300 Operation of Vehicle after Cancellation, Suspension, or Revocation of any Registration  
1010.310 Improper Use of Evidences of Registration  
1010.320 Suspension, Cancellation or Revocation of Illinois Registration Plates and Cards and Titles

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1010.330 Operation of Vehicle Without Proper Illinois Registration  
1010.350 Suspension or Revocation  
1010.360 Surrender of Plates, Decals or Cards

## SUBPART E: SPECIAL PERMITS AND PLATES

Section  
1010.410 Temporary Registration--Individual Transactions  
1010.420 Temporary Permit Pending Registration In Illinois  
1010.421 Issuance of Temporary Registration Permits by Persons or Entities Other Than the Secretary of State  
1010.425 Non-Resident Drive-Away Permits  
1010.426 Five Day Permits  
1010.430 Registration Plates for Motor Vehicles Used for Transportation of Persons for Compensation and Tow Trucks  
1010.440 Title and Registration of Vehicles with Permanently Mounted Equipment  
1010.450 Special Plates  
1010.451 Purple Heart License Plates  
1010.452 Special Event License Plates  
1010.453 Retired Armed Forces License Plates  
1010.454 Gold Star License Plates  
1010.455 Collectible License Plates  
1010.456 Sample License Plates For Motion Picture and Television Studios  
1010.457 Korean War Veteran License Plates  
1010.458 Collegiate License Plates  
1010.460 Special Plates for Members of the United States Armed Forces Reserves  
1010.470 Dealer Plate Records  
1010.480 State of Illinois In-Transit Plates

## SUBPART F: FEES

Section  
1010.510 Determination of Registration Fees  
1010.520 When Fees Returnable  
1010.530 Circuit Breaker Registration Discount  
1010.540 Maximum Fees for Distribution of Motor Vehicle Renewal Plates and/or Stickers

## SUBPART G: MISCELLANEOUS

Section  
1010.610 Unlawful Acts, Fines and Penalties  
1010.620 Change of Engine

## SUBPART H: SECOND DIVISION VEHICLES

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Section  
 1010.705 Reciprocity  
 1010.710 Vehicle Proration  
 1010.715 Proration Fees  
 1010.720 Vehicle Apportionment  
 1010.725 Trip Leasing  
 1010.730 Intrastate Movements, Foreign Vehicles  
 1010.735 Interline Movements  
 1010.740 Trip and Short-term Permits  
 1010.745 Signal 30 Permit for Foreign Registration Vehicles (Repealed)  
 1010.750 Signal 30-year-round for Prorated Fleets of Leased Vehicles (Repealed)  
 1010.755 Mileage Tax Plates  
 1010.756 Suspension or Revocation of Illinois Mileage Weight Tax Plates  
 1010.760 Transfer for "For-Hire" Loads  
 1010.765 Suspension or Revocation of Exemptions as to Foreign Registered Vehicles  
 1010.770 Required Documents for Trucks and Buses to detect "intrastate" movements  
 1010.775 Certificate of Safety

APPENDIX A Uniform Vehicle Registration Proration and Reciprocity Agreement  
 APPENDIX B International Registration Plan

AUTHORITY: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)].

SOURCE: Filed and effective December 15, 1970; emergency amendment at 2 Ill. Reg. 25, p. 119, effective June 14, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 12, p. 76, effective March 23, 1979; amended at 3 Ill. Reg. 29, p. 123, effective July 20, 1979; amended at 4 Ill. Reg. 17, p. 247, effective April 11, 1980; emergency amendment at 4 Ill. Reg. 21, p. 99, effective May 14, 1980, for a maximum of 150 days; amended at 6 Ill. Reg. 2241, effective February 1, 1982; amended at 6 Ill. Reg. 11076, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 1432, effective January 21, 1983; amended at 7 Ill. Reg. 1436, effective January 21, 1983; amended at 8 Ill. Reg. 5329, effective April 6, 1984; amended at 9 Ill. Reg. 3358, effective March 1, 1985; amended at 9 Ill. Reg. 9176, effective May 30, 1985; amended at 9 Ill. Reg. 12863, effective August 2, 1985; amended at 9 Ill. Reg. 14711, effective September 13, 1985; amended at 10 Ill. Reg. 1243, effective January 6, 1986; amended at 10 Ill. Reg. 4245, effective February 26, 1986; amended at 10 Ill. Reg. 14308, effective August 19, 1986; recodified at 11 Ill. Reg. 15920; amended at 12 Ill. Reg. 14711, effective September 15, 1988; amended at 12 Ill. Reg. 15193, effective September 15, 1988; amended at 13 Ill. Reg. 1598, effective February 1, 1989; amended at 13 Ill. Reg. 5173, effective April 1, 1989; amended at 13 Ill. Reg. 7965, effective May 15, 1989; amended at 13 Ill.

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Reg. 15102, effective September 15, 1989; amended at 14 Ill. Reg. 4560, effective March 1, 1990; amended at 14 Ill. Reg. 6848, effective April 18, 1990; amended at 14 Ill. Reg. 9492, effective June 1, 1990; amended at 14 Ill. Reg. 19066, effective November 15, 1990; amended at 15 Ill. Reg. 12782, effective August 15, 1991; amended at 16 Ill. Reg. 12587, effective August 1, 1992; amended at 19 Ill. Reg. 11947, effective August 1, 1995; amended at 19 Ill. Reg. 16289, effective November 27, 1995; amended at 20 Ill. Reg. 11349, effective August 1, 1996; amended at 21 Ill. Reg. 8408, effective June 23, 1997; amended at 21 Ill. Reg. 13372, effective September 17, 1997; amended at 22 Ill. Reg. 8521, effective **APR 28 1998**.

## SUPPORT B: TITLES

Section 1010.190 Issuance of Title and Registration Without Standard Ownership Documents - Bond

## a) Definitions

"Appraisal" means an affirmation statement of the current wholesale value of the vehicle by a disinterested person of suitable qualifications, such as a licensed new or used vehicle dealer (including motorcycle, mobile home, and trailer dealers), a licensed rebuilder (for salvage and junk vehicles only), a licensed real estate agent (for mobile homes only), or an officer of an antique vehicle club or association (for antique vehicles only).

"Cash bond" means a bond executed by the applicant for vehicle ownership and accompanied by the deposit of cash in the form of currency, cashier's check, money order, or bank certificate of deposit made payable to the State Treasurer.

"Surety bond" means a bond executed by the applicant for vehicle ownership and a person/firm authorized to conduct a surety business in Illinois which obligates the guarantor to pay a third party upon default by the applicant in the performance of any duty the applicant owes to any third party.

"Wholesale value" means the trade-in value of a vehicle or the value of a vehicle sold between licensed dealers and not at retail.

## b) Statement of Policy

Section 5/3-109 of the Illinois Vehicle Code provides that, in the absence of standard ownership documents, the Secretary of State may as a condition of issuing a certificate of title require the applicant to file a bond in the form prescribed by the Secretary of State and executed by the applicant and either accompanied by the deposit of cash or also executed by a person/firm authorized to conduct a surety business in Illinois. The bond shall be in the amount equal to 1 1/2



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times the current wholesale value of the vehicle and conditioned to indemnify the Secretary of State and any prior owner or lienholder and any subsequent purchaser of the vehicle, or person acquiring any security interest in the vehicle, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of a certificate of title for the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability to all persons shall not exceed the amount of the bond. The bond and any deposit accompanying it shall be returned at the expiration of 3 calendar years from the date of filing, or prior thereto at the applicant's request if the vehicle is no longer registered in this State, and the currently valid certificate of title is surrendered to the Secretary of State, unless the Secretary of State has been notified of the pendency of an action to recover on the bond.

c) Documents Required to be Submitted to the Secretary of State Prior to Issuance of Title/Registration Without Standard Ownership Documents

- 1) Evidence of the right of the applicant to acquire title, such as a bill of sale, receipt, or canceled check. If such evidence is not available, an affirmation statement detailing the circumstances under which the vehicle was acquired without title is required.
  - 2) An appraisal of the current wholesale value of the vehicle from a licensed new or used vehicle dealer (including motorcycle, mobile home, and trailer dealers); a licensed rebuilder (for salvage or junk vehicles only); a licensed real estate agent (for mobile homes only); or an officer of an antique vehicle club or association (for antique vehicles only). The appraisal should be an affirmation statement and should contain a complete description of the vehicle (year, make, model, and vehicle identification number); the current wholesale value; a statement that the vehicle is intact and that all major component parts are present; a statement that the appraisal value is accurate to the best of the appraiser's knowledge and that the affirmation is made under penalties of perjury; the signature and printed name of the appraiser; the firm name, address, and dealer license number; and the date of the appraisal. (A suggested Affirmation of Appraisal form follows.)
- The appraisal can also be obtained from a used vehicle price guide, supported by copies of the front cover and pertinent pages of the guide.

## AFFIRMATION OF APPRAISAL

The undersigned hereby affirms that the value of the vehicle described

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below is \$\_\_\_\_\_ and that the vehicle is intact and all major component parts are present.

Year	Make	Model	Vehicle Identification Number
I affirm, under penalties of perjury, that the foregoing statement is accurate to the best of my knowledge.			

Firm Name	Signature of Appraiser
Address	
Printed Name of Appraiser	
Dealer License Number	
Date of Appraisal	

3) A surety bond or cash bond executed in the form prescribed by the Secretary of State in an amount equal to 1 1/2 times the appraised value of the vehicle.

4) A completed application for certificate of title/registration accompanied by a fee of \$13 for issuance of title, and if license plates are desired, proper registration fee according to the appropriate schedule.

5) A completed Vehicle Use Tax Return and tax payment, if applicable.

## d) Miscellaneous

1) If the title records of the Secretary of State reflect a lien, a lien release from the lienholder must accompany the transaction.

2) If the title record is a Salvage Certificate or Junking Certificate, a bond will not be accepted to issue a clean certificate of title.

3) A bond will not be accepted to issue title on an abandoned vehicle, a vehicle subject to a mechanic's lien, or a repossessed vehicle.

(Source: Added at 22 Ill. Reg. 8521, effective APR 28 1993)

## Section 1010.510 Determination of Registration Fees

## a) References

- 1) Subject  
This Section describes the determination of registration fees.
- 2) Authority  
This Section is promulgated under the general authority of Section 2-104 of the Illinois Vehicle Code and based on the

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provisions of Section 3-803 of the Illinois Vehicle Code [IVC] 17 [625 ILCS 5/2-104 and 3-803] ~~III-Rev-Stat-1989, ch-95-1/27~~ ~~para-2-104-and-3-003.~~

## 3) References

The following Sections of the Illinois Vehicle Code are referenced in this Section:

3-801  
3-806

## 4) Definitions

"Delayed registration affirmation" means a statement by the owner that the vehicle to be registered has not been operated on the public highways during his ownership. The Office of the Secretary of State shall deny a delayed registration affirmation if all the information requested is not supplied or if the information provided is in conflict with other information.

To "operate" a vehicle means to cause the vehicle to move about the public highways under the vehicle's own power. Towing a vehicle shall not be considered operating the vehicle.

## 5) Interpretive Comment

A) Section 3-803 of the Illinois Vehicle Code establishes the policy that certain individuals are entitled to a reduced registration fee under specific conditions. By Section paragraph 3-803(a), persons who are eligible for a reduction are those who:

- i) acquire the vehicle "after the beginning of... (the applicable) registration period registration-period;" or
- ii) independent of when the vehicle was acquired, have a vehicle "which became ~~became~~ subject to registration" after the beginning of the the applicable registration period."

B) Subsections Paragraphs (b) through (d) of Section 3-803 of the Illinois Vehicle Code establish the percent of the permissible reduction to which each class of registrants is entitled and the qualifying times.

C) In Subsections Paragraphs (b) and (d) the term "or which become subject to registration after the beginning of a registration period..." does not appear even though it appears in Subsection Paragraph (a). It is our interpretation that the Legislature intended the broader statement of Subsection Paragraph (a) to apply throughout Section 3-803 of the Illinois Vehicle Code, and that a vehicle is not subject to registration until the owner uses it on public highways. Therefore, an individual who purchases a vehicle which is specially outfitted or stored does not become subject to registration until the vehicle is

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so outfitted or removed from storage and the owner operates the vehicle on public highways. If such operation occurs after a qualifying time period for fee reduction, then such individual is entitled to such fee reduction. Guidelines for determining the date a vehicle becomes subject to registration are set forth in subsection paragraph (a)(6), below.

D) Subsections Paragraphs (e) and (f) of Section 3-803 of the Illinois Vehicle Code establish certain types of registration to which fee reduction cannot apply under any circumstance.

## E) Grace Period

i) Section 3-801 of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/3-801] ~~III-Rev-Stat-1989, ch-95-1/27~~ ~~3-003~~ provides a 24 hour grace period applicable only to vehicle sales between individuals to allow the buyer to drive the vehicle from the point of sale to the individual's residence or to a facility to obtain registration. Evidence of ownership shall be carried on the vehicle and shall consist of a properly assigned title to the new owner or a bill of sale which contains but is not limited to the following information: the name and address of the seller and buyer; the year, make, serial number of the vehicle; and the date of the sale. Once the vehicle has been operated upon the public highways, however, the owner shall apply for registration within 24 hours of such operation. The owner's subsequent plans for the vehicle (storage, special outfitting, etc.) are irrelevant. The fee reductions of Section 3-802(b)-(d) are not available once the vehicle has been operated on the public highways.

ii) Vehicles operated with a 5 day permit but not operated after the expiration of the permit shall become subject to registration as provided in subsection (a)(6).

iii) If the vehicle was towed to its new destination, the vehicle shall be subject to registration as provided in subsection (a)(6), infra.

## 6) Date Vehicles Become Subject to Registration

A) The date the vehicle is first operated on the public highways by the present owner determines the date the vehicle becomes subject to registration. However, if the date of initial operation of the vehicle is unknown to the personnel of the Department of Vehicle Services, the date upon which the vehicle becomes subject to registration shall be determined by subsection (a)(6) (B) or (C) below.

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- B) The purchase date shall be used to determine when the vehicle became subject to registration if the title and registration application date is within six (6) months of the purchase date, and no delayed registration affirmation accompanied the registration application.
- C) The application date shall be used to determine when the vehicle became subject to registration if:
- i) the title and registration application date is within six (6) months after of the purchase date and the owner submits a delayed registration affirmation; or
  - ii) the title and registration application date is more than six (6) months after the purchase date; or
  - iii) the vehicle was previously titled but was not registered; or
  - iv) the vehicle had been registered within the preceding twelve--t 12) months, but the plates have been transferred to another vehicle.
- D) For purposes of Section 3-803(f) of the IVC, the date the applicant becomes a resident of this state shall determine when the vehicle became subject to registration if the vehicle, within the preceding 12-month registration year, had been titled and registered in this state but currently is registered in another state. The owner shall submit proper proof that the vehicle had been validly registered in the other state during this period. The other state's vehicle registration card shall provide such proof. If this card is unavailable, the Secretary shall request verification of current registration from the other state. Upon providing such verification, the vehicle owner shall not be assessed registration fees for any prior registration period.

## b) Calendar Year Registration

- 1) The registration fees and taxes imposed upon vehicles registered on an annual registration year basis shall be reduced by 50 percent when the vehicle becomes subject to registration on or after June 15, but before December 1 of a given calendar year. This subsection shall apply to passenger cars used as taxicabs or delivery, and to vehicles registered with funeral home, ambulance, or honorary consular license plates.

## 2) Reduced Registration

- A) Within any calendar year, if an applicant becomes the owner of a vehicle of the first division prior to June 15, and the vehicle is in fact not used or operated on a highway of this State prior to June 15;
- B) Then the applicant shall be entitled to a reduced registration in the manner provided for in subsection (b)(1) above, upon compliance with the procedures of subsection (b)(3) below.

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## 3) Delayed Registration Affirmation

- A) If the vehicle was purchased within six (6) months after of the application date, the applicant shall submit a delayed registration affirmation to be eligible for reduced fees and taxes under subsection (b)(2), above.
  - B) If the vehicle was purchased more than six (6) months prior to the application date, a delayed registration affirmation shall not be required.
- 4) A person who becomes the owner of a vehicle after December 1 of any calendar year shall be permitted to register that vehicle for the following registration period without being required to register the vehicle for the current or any previous registration period.
  - 5) If a person becomes the owner of a vehicle before December 1 of any calendar year, but applies for registration after December 1, then such person shall be permitted to register that vehicle for the following registration period without being required to register the vehicle for the current or any previous registration period provided that the delayed registration affirmation indicates that the vehicle has not been operated prior to December 1 or that the purchase date is six months or more from the date of the registration application, as provided in subsection (a)(6).
- c) Registration of Motorcycles, Motor Driven Cycles, and Pedalcycles
- 1) The registration fees and taxes imposed upon motorcycles, motor driven cycles, and pedalcycles, shall be reduced by 50 percent when the vehicle becomes subject to registration on or after September 16 of a given calendar year but prior to March 1 of the following calendar year.
- 2) Reduced Registration
    - A) If an applicant becomes the owner of a motorcycle, motor driven cycle, or a pedalcycle prior to September 16 of the vehicle is in fact not used or operated on a highway of this State prior to September 16 of;
    - B) Then the applicant shall be entitled to a reduced registration in the manner provided for in subsection paragraph (c)(1) above, upon compliance with the procedures of subsection paragraphs (c)(3) below.
- 3) Delayed Registration Affirmation
    - A) If the vehicle was purchased within six (6) months after of the application date, the applicant shall submit a delayed registration affirmation to be eligible for reduced fees and taxes under subsection (c)(2), above.
    - B) If the vehicle was purchased more than six (6) months prior to the application date, a delayed registration affirmation shall not be required.
  - 4) A person who becomes the owner of a vehicle after March 1 of any calendar year shall be permitted to register that vehicle for the



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following registration period without being required to register the vehicle for the current or any previous registration period.

5) If a person becomes the owner of a vehicle before March 1 of any calendar year but applies for registration after March 1, then such person shall be permitted to register that vehicle for the following registration period without being required to register the vehicle for the current or any previous registration periods provided that the delayed registration affirmation indicates that the vehicle has not been operated prior to March 1 or that the purchase date is six months or more from the date of the registration application, as provided in subsection (a)(6).

(Source: Amended 22 Ill. Reg. 0521, effective APR 28 1998)

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1) Heading of the Part: Real Estate Appraiser Certification

2) Code Citation: 68 Ill. Adm. Code 1455

3) Section Number: Proposed Action:

1455.10 Amendment

1455.400 New

1455.405 New

1455.410 New

1455.415 New

1455.420 New

1455.425 New

1455.430 New

1455.435 New

1455.440 New

1455.445 New

1455.450 New

1455.455 New

1455.460 New

1455.465 New

1455.470 New

1455.475 New

1455.480 New

1455.485 New

1455.487 New

1455.490 New

1455.495 New

1455.497 New

1455.500 New

1455.Appendix A

1455.Appendix B New

4) Statutory Authority: Implementing and authorized by Article 2 the Real Estate License Act of 1983 [225 ILCS 455/Art.2]

5) Effective Date of Amendment: April 29, 1998

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it expires: July 1, 1998

7) Date Filed in Agency's Principal Office: April 29, 1998

8) Reason for Emergency: The proposed emergency rules set forth hearing procedures for use in relation to real estate appraiser licensing under Article 2 of the Real Estate License Act of 1983 [225 ILCS 455/Art. 2]. At least one hearing, perhaps more, is anticipated before these new hearing procedures could be adopted by regular rulemaking, so these rules are being adopted on an emergency basis.

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9) A complete description of the subjects and issues involved: Before July 1, 1995, real estate appraiser licensing was administered by the Department of Professional Regulation (DPR). Any hearings relating to real estate appraiser licensing would have been conducted pursuant to DPR's general hearing rules. On July 1, 1995, the appraiser licensing program was transferred by P.A. 89-23 to the Office of Banks and Real Estate (OBRE), along with all related rights, powers, duties, rules, and appropriations formerly held by DPR in relation to that program. There have been no appraiser-related hearings since the transfer but, if there had been, OBRE would have had to rely upon the rules of another agency (DPR) for hearing procedures. To rectify that problem, this rulemaking sets forth specific appraiser hearing rules promulgated by the agency (OBRE) that now has administrative responsibility for real estate appraiser licensing.

10) Are there any proposed amendments pending to this Part? No

11) Statement of Statewide Policy Objectives: This rule will not affect local government.

12) Information and questions regarding this amendment shall be directed to:

John Arthur  
Legislative Liaison  
Office of Banks and Real Estate  
500 East Monroe, Suite 900  
Springfield IL 62701  
(217) 782-3000

The full text of the emergency amendment begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VIII: OFFICE OF BANKS AND REAL ESTATE

## PART 1455

## REAL ESTATE APPRAISER CERTIFICATION

## SUBPART A: RESIDENTIAL AND GENERAL CERTIFICATION

Section	Definitions
1455.10	Uniform Standards of Professional Appraisal Practice
EMERGENCY	Jurisdictional Exceptions/Supplemental Standards
1455.15	Education and Experience Requirements for State Licensed Real Estate Appraiser
1455.16	Education and Experience Requirements for Certified Residential and Certified General Real Estate Appraiser
1455.20	Application as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser
1455.30	Examination
1455.40	Nonresident Licensure/Certification
1455.50	Nonresident/Temporary Practice
1455.60	Upgrade and Downgrade of Appraiser License/Certification
1455.70	
1455.80	

## SUBPART B: EDUCATION PROVIDERS

Section	Approval of Education Providers/Courses
1455.200	Appraiser Continuing Education (CE)
1455.205	Fees - Education Providers/Courses (Repealed)
1455.210	

## SUBPART C: GENERAL

Section	Renewals
1455.300	Fees
1455.305	Granting Variances
1455.310	

## SUBPART D: HEARINGS

Section	Applicability
1455.400	Institution of a Contested Case by the Agency
EMERGENCY	Institution of a Contested Case by Petitioner
1455.405	
EMERGENCY	
1455.410	
EMERGENCY	

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1455.415	<u>Parties to Hearings</u>
1455.420	<u>Joinder</u>
1455.425	<u>Form of Papers</u>
1455.430	<u>Service</u>
1455.435	<u>Notice</u>
1455.440	<u>Representation</u>
1455.445	<u>Failure to Appear</u>
1455.450	<u>Amendment, Withdrawal of Complaints and Petitions for Hearing</u>
1455.455	<u>Requirement of an Answer</u>
1455.460	<u>Discovery</u>
1455.465	<u>Subpoenas</u>
1455.470	<u>Prehearing Conference</u>
1455.475	<u>Hearings</u>
1455.480	<u>Administrative Law Judges</u>
1455.485	<u>Disqualification of an Administrative Law Judge</u>
1455.487	<u>Examination by the Committee</u>
1455.490	<u>Burden of Proof</u>
1455.495	<u>Motions</u>
1455.497	<u>Continuances</u>
1455.500	<u>Evidence</u>
APPENDIX A	<u>Caption for a Case Filed by the Division</u>
APPENDIX B	<u>Caption for a Case Filed by the Petitioner</u>

AUTHORITY: Implementing Article 2 of the Real Estate License Act of 1983 [225 ILCS 455/Art. 2] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

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SOURCE: Emergency rules adopted at 16 Ill. Reg. 16196, effective September 30, 1992, for a maximum of 150 days; rules adopted at 17 Ill. Reg. 1589, effective January 26, 1993; emergency amendment at 17 Ill. Reg. 6668, effective April 19, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13494, effective July 30, 1993; amended at 18 Ill. Reg. 2379, effective January 28, 1994; emergency amendment at 18 Ill. Reg. 3006, effective February 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8428, effective May 24, 1994; amended at 19 Ill. Reg. 9176, effective June 26, 1995; emergency amendment at 19 Ill. Reg. 12503, effective August 16, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16604, effective December 1, 1995; amended at 20 Ill. Reg. 6488, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 1685, effective January 27, 1997; amended at 21 Ill. Reg. 5538, effective April 18, 1997; emergency amendment at 22 Ill. Reg. 4132, effective February 4, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998, for a maximum of 150 days.

SUBPART A: RESIDENTIAL AND GENERAL CERTIFICATION

Section 1455.10 Definitions  
EMERGENCY

"Act" means the Real Estate License Act of 1983 [225 ILCS 455].

"Agency" means the Office of Banks and Real Estate.

"Appraisal" or "real estate appraisal" means an analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate, for or in expectation of compensation. An appraisal may be classified by purpose into either a valuation or an analysis. A valuation is an estimate of the value of real estate or real property. An analysis is a study of real estate or real property other than estimating value.

"Appraisal Consulting" is the act or process of providing information, analysis of real estate data and recommendations or conclusions on diversified problems in real estate, other than estimating value.

"Appraisal Qualification Board" is a committee of the Appraisal Foundation established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"Appraisal Report" means any written communication of an appraisal.

"Appraisal Standard Board" is a committee of the Appraisal Foundation established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.



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"Appraisal Subcommittee" means the federal Appraisal Subcommittee established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. Chapter 34A).

"Appraiser" or "real estate appraiser" means any person who inspects, analyzes, or renders an opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate, for or in expectation of compensation.

"Certified General Real Estate Appraiser" means a real estate appraiser who holds a current, valid Certified General real estate appraiser's certificate issued under Article 2 of the Act.

"Certified Residential Real Estate Appraiser" means a real estate appraiser who holds a current, valid Certified Residential real estate appraiser's certificate issued under Article 2 of the Act.

"Commissioner" means the Commissioner of Banks and Real Estate.

"Committee" means the Real Estate Appraisal Committee established in Section 36.3 of the Act.

"Director" means the Director of Real Estate Appraisal appointed by the Commissioner, in accordance with Section 36.2a of Article 2 of the Real Estate License Act of 1983, to administer the Illinois appraisal program.

"Division" means the Real Estate Appraisal Administration Division of the Office of Banks and Real Estate.

"Federally Related Transaction" means any real estate related financial transaction that:

a federal financial institution's regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates and requires the services of an appraiser; or

any other real estate related financial transaction for which a licensed or certified real estate appraiser is required under federal law or regulations.

"Federal Financial Institutions Regulatory Agencies (FFIRA)" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision and the National Credit Union Administration.

"Hearings" means any hearing authorized to be held in the Division or

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before its Committee or the Commissioner by Article 2 of the Real Estate License Act of 1983.

"Mass Appraisals" is defined as the process of valuing a universe of properties as of a given date, utilizing standard methodology, employing common data and allowing for statistical testing.

"Office (OBRE)" means the Office of Banks and Real Estate or its predecessor agencies.

"Petitioner" is a party who by written petition or application seeks relief or licensure under any provision of applicable statutes of the State of Illinois or any rule, regulation, order or determination of the Division or Agency related to the Real Estate Appraisal Profession.

"Real Estate" means an identified parcel or tract of land, including improvements, if any.

"Real Estate Related Financial Transaction" means any transaction involving:

the sale, lease, purchase, investment in or exchange of real property, or the financing thereof;

the refinancing of real property or interests in real property; or

the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

"Real Property" means one or more defined interests, benefits and rights inherent in the ownership of real estate.

"Respondent" is a person, firm, association or corporation against whom a complaint or petition is filed or to whom an order or complaint is directed by the Agency initiating a proceeding.

"State Licensed Real Estate Appraiser" means a real estate appraiser who holds a current, valid real estate appraiser's license issued under Article 2 of the Act.

"USPAP" means the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation.

(Source: Amended by emergency amendment at 22 Ill. Reg. effective April 29, 1998)

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## SUBPART D: HEARINGS

Section 1455.400 Applicability  
EMERGENCY

This Subpart shall apply to all hearings conducted under the jurisdiction of the Office of Banks and Real Estate, Division of Real Estate Appraisal Administration (hereinafter, the Agency) and the Commissioner.

(Source: Added by emergency amendment at 22 Ill. Reg. **8534**, effective April 29, 1998)

Section 1455.405 Institution of a Contested Case by the Agency  
EMERGENCY

- a) A contested case is instituted by the Agency when a Complaint and Notice are mailed to the respondent's last known address, postage prepaid, by certified mail, by other signature restricted delivery service, or by personal delivery.
- b) A Complaint shall be in writing, signed by the Chief of Real Estate Appraisal Prosecutions, and shall include a clear statement of the acts or omissions alleged to violate a statute or rule, and citation of the statute or rule.
- c) A Notice shall be in writing, shall contain the date, time, place and nature of the hearing to be held, shall refer to the Agency's rules of Practice (68 Ill. Adm. Code 1455.Subpart D and Appendices A and B), and shall comply with the Notice requirements of Section 1455.435 of this Part.

(Source: Added by emergency amendment at 22 Ill. Reg. **8534**, effective April 29, 1998)

Section 1455.410 Institution of a Contested Case by Petitioner  
EMERGENCY

- a) A contested case is instituted by a petitioner when a Petition for Hearing is served on the Agency in Springfield, Attention: Director of Real Estate Appraisal, postage prepaid, or delivered personally and received by the Agency in Chicago.
- b) In a case where a petitioner is seeking restoration of a certificate of registration that was revoked or suspended, the Petition for Hearing shall be in writing, signed by the petitioner, and shall set forth:
  - 1) The number of the certificate that was suspended or revoked;
  - 2) The docket number of the case that resulted in discipline;
  - 3) The date on which the suspension or revocation was ordered;
  - 4) Whether the order that suspended or revoked the license was appealed, and if so, whether a stay of the imposition of

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- discipline was granted by any reviewing court;
  - 5) Proof of compliance with any conditions precedent to the filing of a petition, including, but not limited to, the payment of any fine, restitution, or course completion;
  - 6) All dates and types of employment held since the discipline was imposed, including the name of the employer, the employer's address and telephone number, and the name of any supervisor;
  - 7) All continuing or remedial education completed since the discipline was ordered;
  - 8) If the petitioner has sought medical treatment, psychotherapy or counseling since the discipline was ordered, and if rehabilitation is relied upon as a basis for petitioning that the license be restored, the name and address of the treating professional and whether petitioner consents to disclosure by the professional of matters that are relevant to whether petitioner is fit to resume practice;
  - 9) Any arrests or convictions since the discipline was ordered;
  - 10) Any disciplinary actions commenced or taken against the petitioner by any other licensing or regulatory agency in the State, or any other jurisdiction;
  - 11) A certification by the petitioner that he or she is in compliance with all applicable Court Orders and laws, including, but not limited to, those regarding student loans, continuing education requirements, child support and Illinois tax liabilities; and
  - 12) Date and disposition of any other petitions for restoration filed since the discipline was ordered.
- c) The Agency may file a Notice of Intent to Deny Licensure, Notice of Intent to Refuse to Renew, or Notice of Intent to Suspend in matters alleging the registrant has been convicted of a crime, has failed to file a tax return or pay Illinois taxes, child support, or Illinois guaranteed student loans, or has failed to comply with the continuing education renewal requirements and/or experience renewal requirements. The petitioner may respond to such Notices and seek to contest the decision by the Agency by the filing of a Petition for Hearing. The Petition for Hearing must be in writing, signed by the petitioner, and shall state with specificity the particular reasons why the petitioner believes that the reasons listed on the Notice are incorrect. When appropriate, the Petitioner shall attach supporting documentation. The Petition for Hearing must be served upon the Agency no later than 30 days after the date of service of the Agency's Notice.
- d) Upon receipt by the Director of a properly completed Petition for Hearing, a case will be docketed and notice will be sent to the petitioner setting forth the date, time, and place of the Preliminary Hearing.
- e) The petitioner, or the petitioner's counsel, must appear for the Preliminary Hearing and any subsequent Status Hearings, unless a continuance has been granted by the Administrative Law Judge for good cause upon a written Motion for Continuance.



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENT

(Source: Added by emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998)

Section 1455.415 Parties to HearingsEMERGENCY

The parties to an administrative hearing before the Agency are the Office of Banks and Real Estate and the Respondent or Petitioner.

(Source: Added by emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998)

Section 1455.420 JoinderEMERGENCY

In the interest of a convenient, expeditious, and complete determination of matters, the Administrative Law Judge may consolidate or sever hearing proceedings involving any number of parties, and may order additional parties to be brought in.

(Source: Added by emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998)

Section 1455.425 Form of PapersEMERGENCY

- a) All papers filed in any proceedings except exhibits shall be typewritten or printed. Long quotations shall be single spaced and indented.
- b) All papers, except exhibits, shall be cut or folded so as not to exceed a width of 8 1/2 inches and a length of 11 inches and shall have inside margins not less than one inch wide. Whenever practical, all exhibits of a documentary character shall conform to these requirements.
- c) All pleadings, written motions, or notices filed in the administrative proceedings shall be dated and signed in ink by the party filing the paper or his or her attorney or representative.
- d) Pleadings, written motions, and notices shall contain the address of the party filing the paper or, if represented by an attorney, the name, business address and telephone number, including area code, of such attorney.
- e) The first page of all pleadings, written motions or notices shall conform to the Agency's pleading format. (See Appendix A or B, whichever is applicable.)

(Source: Added by emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998)

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENT

Section 1455.430 ServiceEMERGENCY

- a) Service of any document may be by certified mail, personal delivery, or other signature restricted delivery service. Proof of service will be attached to the original of any document. In the absence of evidence to the contrary, the date shown on the proof of service shall be deemed the date of service.
- b) Service on the Commissioner, the Committee, or the Agency is made by service on the Director at the Springfield headquarters. The date of service upon the Agency is either the date the document is personally delivered or deposited into the U.S. mail, postage pre-paid.
- c) Service on a petitioner, registrant or respondent shall be by certified mail, personal delivery or other signature restricted delivery service to the last known address of record with the Agency, or to the last known address of the Illinois licensed attorney having filed an appearance on behalf of the respondent or petitioner, or by personal service.
- d) Service of any documents as provided in subsection (b) above will include at least two copies of the documents served.
- e) In a contested case instituted by the petitioner, the original and all copies of the initial petition will be served on the Director in Springfield. Thereafter, the petitioner will serve the original document on the Director in Springfield with a copy to the Chief of Real Estate Appraisal Prosecutions in Chicago. In all other cases, the original document will be served on the Director in Springfield with a copy to the Chief of Real Estate Appraisal Prosecutions in Chicago.

(Source: Added by emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998)

Section 1455.435 NoticeEMERGENCY

- a) Notice shall include:

- 1) A statement of the time, place and nature of the hearing;
- 2) A statement of the legal authority and the jurisdiction under which the hearing is held;
- 3) Except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted;
- 4) A statement that failure to file an answer within 20 days after service of the notice will result in default being taken against the applicant or licensee and that the license or certificate may be suspended, revoked, or placed on probationary status, or other disciplinary action may be taken, including limiting the scope, nature or extent of practice, as the Commissioner may deem proper.



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENT

- 5) A statement that the Office of Banks and Real Estate shall afford the person an opportunity to be heard in person or by counsel.
- b) Except as otherwise provided by statute, the respondent will be given at least 30 days notice prior to the first date set for the Preliminary Hearing or hearings, as the case may be.
- c) Any change of address by the respondent or a petitioner must be in writing signed by the respondent or petitioner and served upon the Agency in Chicago.
- d) Any contention that improper notice was given will be deemed waived unless it is raised by the respondent or petitioner upon the first appearance of the respondent or petitioner.
- e) Proper notice is given by depositing a Notice with the U.S. Postal Service, either by certified mail or other signature restricted delivery service, to the last known address of the respondent or petitioner, or the Illinois licensed attorney having filed an appearance on behalf of the respondent or petitioner, or by personal service.

(Source: Added by emergency amendment at 22 Ill. Reg. effective April 29, 1998)

## Section 1455.440 Representation

EMERGENCY

- a) A party may be represented by an attorney who is licensed in Illinois. Attorneys who appear in a representative capacity must file a written notice of appearance setting forth:

- 1) The name, address and telephone number of the attorney; and
- 2) The name and address of the party represented.

- b) Attorneys licensed in other jurisdictions may appear on motion.

- c) Special appearances are not recognized. The initial appearance regardless of form is deemed a general appearance.

- d) An attorney may withdraw from employment as a representative only upon written notice to the Agency that states the attorney's specific reasons for withdrawing. Such written notice of withdrawal must be served upon the party who was represented in accordance with Section 1455.435. An affidavit of service must accompany the notice of withdrawal.

- e) Any corporation, partnership, limited liability company, or other legal entity must be represented by an Illinois licensed attorney.

- f) Attorneys appearing before the Agency shall conform their conduct to the Illinois Rules of Professional Conduct, effective August 1, 1990, and as amended thereafter. Any failure to behave in a manner that permits the efficient functioning of the Agency will authorize the Committee or Administrative Law Judge to take the following actions:

- 1) limitation of evidence;
- 2) substitution of written argument in place of oral argument;
- 3) exclusion of an attorney from the proceeding.

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## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENT

- g) If any of the actions set forth in subsection (f) above are taken by the Committee or Administrative Law Judge, it shall be done as a matter of record, and the Committee or Administrative Law Judge shall state for the record the specific reasons for the action.

(Source: Added by emergency amendment at 22 Ill. Reg. effective April 29, 1998)

8534

## Section 1455.445 Failure to Appear

EMERGENCY

Failure to appear at the time and place set for hearing shall be deemed a waiver of the right to present evidence. After presentation by the Agency of an offer of proof that the respondent was given proper notice, the Committee may deem the allegations of the complaint to be true, and shall make its recommendation. When a petitioner fails to appear, the Petition for Hearing shall be dismissed.

(Source: Added by emergency amendment at 22 Ill. Reg. effective April 29, 1998)

8534

## Section 1455.450 Amendment, Withdrawal of Complaints and Petitions for Hearing

EMERGENCY

- a) The Complaint may be amended at any time. An amended Complaint may be filed in the same manner as a Complaint, or it may be presented to the Committee or Administrative Law Judge during the course of the hearing. A continuance shall be granted whenever the amendment materially alters the Complaint, and when the respondent demonstrates that he would otherwise be unable to continue to defend his or her case properly.

- b) A Complaint or Petition for Hearing may be withdrawn at any time prior to the hearing by the party who initiated it. After a hearing has begun, a Complaint may be withdrawn only upon written notice and with the permission of the Director.

(Source: Added by emergency amendment at 22 Ill. Reg. effective April 29, 1998)

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## Section 1455.455 Requirement of an Answer

EMERGENCY

- a) In all contested cases instituted by the Agency, the respondent shall file an Answer or otherwise plead within 20 days after the date on which the Complaint was filed. The Answer shall be in writing, signed by the respondent, and shall contain a specific response to each allegation in the Complaint. The response shall either admit or deny the allegation, or shall state that the respondent has insufficient

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENT

information to admit or deny the allegation.

- b) Any Answer that states that the respondent has insufficient information to admit or deny the allegation shall be accompanied by an affidavit of the respondent attesting to the truth of this assertion.
- c) If an Answer or other responsive pleading has not been served on the Agency by the Preliminary Hearing, the Administrative Law Judge may find the respondent to be in default and order the matter to be sent to the Committee on the pleadings.

(Source: Added by emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998)

## Section 1455.460 Discovery

## EMERGENCY

- a) Whether or not a request is made, during discovery a respondent who has filed an Answer or a petitioner shall be entitled to:

- 1) The name and address of any witness who may be called to testify;
- 2) Copies of any document that may be offered as evidence;
- 3) A description of any other evidence that may be offered;
- 4) Any exculpatory evidence in the Agency's possession. Exculpatory evidence is any evidence that tends to support the position of the respondent or petitioner or to call into question the credibility of an Agency witness; and
- 5) A copy of all relevant investigative reports.

- b) Upon a written request served on the respondent or the petitioner, at any time after a Complaint is filed, or at any stage of the hearing, the respondent or petitioner will be required to produce within 7 days documents, books, records or other evidence that relates directly to respondent's practice of real estate appraisal or other subjects of the administrative hearing.

- c) Nothing in this Section shall prevent the parties in a contested case from agreeing to a mutual exchange of information that is more extensive than what is provided for in this Section. When all parties agree to the use of an evidence deposition, such agreement will be in writing and will operate as a waiver of any objection not made during the deposition, except for an objection that the testimony of the witness is not relevant to the case.

- d) Requests to Admit Facts and Genuineness of Documents shall be allowed in accordance with Supreme Court Rule 216.

- e) This Section will be construed to impose a continuing obligation upon the parties to exchange new information as it becomes available.

(Source: Added by emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998)

## Section 1455.465 Subpoenas

## EMERGENCY

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENT

- a) The Commissioner, Director or the Administrative Law Judge may issue subpoenas for the attendance of witnesses or production of books, records, documents or other evidence.

- b) Any respondent or petitioner seeking issuance of a subpoena will apply in writing to the Agency. Attention: Chief of Real Estate Appraisal Prosecutions, setting forth facts that purport to demonstrate that the drafted subpoena is required.

- c) Any party who, without lawful authority, in response to a subpoena or notice to produce, fails to appear or to answer any questions or produce any books, papers, records, or other documents relevant or material to such hearing shall, upon motion of the requesting party, be subject to sanctions, including, but not limited to:

- 1) Dismissal of the case, or
  - 2) Striking of the Answer and sending the matter to the Committee for deliberation and recommendation to the Commissioner based on the Notice and Complaint without a hearing, or
  - 3) Limitation or preclusion of evidence at hearing.
- d) Subpoenas shall be enforced in the same manner as subpoenas issued by the circuit courts of this State.

(Source: Added by emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998)

## Section 1455.470 Prehearing Conference

## EMERGENCY

- a) Upon written notice by the Administrative Law Judge in any proceeding, or upon written request by any party, the Administrative Law Judge may direct parties or their attorneys to appear at a specified time and place for a conference, prior to or during the course of hearing, for the purpose of formulating issues and considering:

- 1) Simplification of issues;
- 2) Limitation of issues;
- 3) Negotiating admissions or stipulations;
- 4) Limitation of witnesses or evidence;
- 5) Exchange of exhibits; or
- 6) Discussion of any other matter that may aid in efficient disposition of the case.

- b) Opportunity shall be afforded all parties to be represented by legal counsel and to dispose of the case by stipulation, agreed settlement or consent order, unless otherwise precluded by law. Any stipulation, agreed settlement, or consent order reached before a final determination by the Agency shall be submitted in writing to the Administrative Law Judge and shall become effective only if approved by the Agency.

- c) The Administrative Law Judge shall make a written record of all rulings, decisions or actions taken during the course of a pre-hearing conference.



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENT

(Source: Added by emergency amendment at 22 Ill. Reg. 8534 effective April 29, 1998)

## Section 1455.475 Hearings

EMERGENCY

- a) All hearings shall be public unless required by statute to be otherwise. The Administrative Law Judge may permit any person to offer oral testimony whether or not such person is a party to the proceedings.
- b) The following shall be the order of the proceedings of all hearings, subject to modification by the Administrative Law Judge for good cause:
- 1) Presentation, argument and disposition of motions preliminary to a hearing on the merits of the matter raised in the Notice or Answer;
  - 2) Presentation of opening statements;
  - 3) Complainant's or petitioner's case in chief;
  - 4) Respondent's case in chief;
  - 5) Complainant's case in rebuttal;
  - 6) Complainant's closing statement, which may include legal argument;
  - 7) Respondent's closing statement, which may include legal argument; and
  - 8) Presentation and argument of all motions prior to final order.
- c) The Administrative Law Judge shall direct all parties to enter their appearances on the record.
- d) The Agency will arrange for a certified stenographic reporter (court reporter) to make a stenographic record of the hearing in all administrative hearings under this Part. Any person may make arrangements to obtain a copy of the stenographic record from the reporter. The Agency reserves the right to employ a certified stenographic reporter. A copy of any stenographic record made by an Agency employee may be purchased from the Agency at a cost of one dollar per page. There shall be no audio or video taping apart from any made by the certified stenographic reporter employed for those purposes by the Agency without the express consent of the Administrative Law Judge and all parties to the hearing.
- e) Corrections to the transcript of the record may be made by the Commissioner or the Administrative Law Judge.
- f) If a party, or any person at the instance of or in collusion with a party, violates any ruling of the Administrative Law Judge, the Administrative Law Judge, on motion, may enter such orders as are just, including, among others, the following:
- 1) that further proceedings be stayed until the order or rule is complied with;
  - 2) that the offending party be barred from filing any other pleadings relating to any issue to which the refusal of failure

NT Chicago

Kent Law School Library

## OFFICE OF BANKS AND REAL ESTATE

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- relates;
- 3) that the offending party be barred from maintaining any particular claim or defense relating to that issue;
  - 4) that a witness be barred from testifying concerning that issue;
  - 5) that, as to claims or defenses asserted in any pleading to which that issue is material, an order of default be entered against the offending party or that the offending party's pleading be dismissed without prejudice; or
  - 6) that any portion of the offending party's pleadings relating to that issue be stricken and, if thereby made appropriate, judgment be entered as to the issue.
- g) At the request of any party, the Administrative Law Judge may exclude all witnesses from the hearing room, except that each party or a representative of a party, in addition to legal counsel, shall be allowed to remain.

(Source: Added by emergency amendment at 22 Ill. Reg. 8534 effective April 29, 1998)

## Section 1455.480 Administrative Law Judges

EMERGENCY

- In any contested case, the Commissioner shall employ an attorney, licensed to practice law in Illinois, to serve as an Administrative Law Judge. The Administrative Law Judge has the authority to conduct a hearing, take all necessary action to avoid delay, maintain order, and insure the development of a clear and complete record. The ALJ shall have all powers necessary to conduct a hearing, including the power to:
- a) Administer oaths and affirmations;
  - b) Regulate the course of hearings, set the time and place for continued hearings, fix time for filing of documents, provide for the taking of testimony by deposition if necessary, and generally conduct the proceeding according to generally recognized administrative law;
  - c) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;
  - d) Rule upon offers of proof and receive relevant evidence;
  - e) Direct parties to appear and confer for the settlement or simplification of issues, and otherwise conduct prehearing conferences;
  - f) Dispose of procedural requests or similar matters;
  - g) Continue the hearing from time to time when necessary;
  - h) Prepare for the Committee written Findings of Fact, Conclusions of Law and Recommended Action for submission to the Commissioner.

(Source: Added by emergency amendment at 22 Ill. Reg. 8534 effective April 29, 1998)



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENT

Section 1455.485 Disqualification of an Administrative Law JudgeEMERGENCY

a) Any interested party to a proceeding may, following notice and an opportunity to object, move to disqualify the assigned Administrative Law Judge on the basis of bias or conflict of interest. An adverse ruling or rulings rendered against the party or its representative in any previous matters shall not, in and of themselves, constitute sufficient grounds for disqualification under this Section. The Commissioner shall determine this issue as part of the record of the case. When an Administrative Law Judge is disqualified, or it becomes impractical for him/her to continue, another presiding officer may be assigned unless it is further shown that substantial bias will result from the assignment.

b) No motion for disqualification shall be permitted after any substantive ruling has been made on the case by the Administrative Law Judge, unless it pertains to a conflict of interest not previously disclosed.

(Source: Added by emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998)

Section 1455.487 Examination by the CommitteeEMERGENCY

a) Any member of the Committee, or any Administrative Law Judge, may examine any witness.

b) Either party may object to specific questions asked by the Committee or Administrative Law Judge, but it shall not be objectionable that a question violates a technical rule of evidence. For purposes of this Subpart, hearsay is a substantive, rather than a technical, rule of evidence.

(Source: Added by emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998)

Section 1455.490 Burden of ProofEMERGENCY

a) The burden of proof rests with the Agency in all cases instituted by the Agency by the filing of a Complaint. A recommendation for discipline may be made by the Committee or Administrative Law Judge only when the Agency establishes by clear and convincing evidence that the allegations of the Complaint are true.

b) The burden of proof in all cases instituted by the filing of a Petition for Hearings rests with the petitioner. The petitioner must prove by a preponderance of the evidence that the license should be granted or restored, or that the intended adverse action should not be

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENT

taken.

(Source: Added by emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998)

Section 1455.495 MotionsEMERGENCY

a) Prior to the commencement of the hearing, any party may present written motions that are relevant and directed to matters of concern to the proceedings. All motions shall be filed with the Committee and served upon all parties, and shall contain:

- 1) A specific statement of the matter of concern,
- 2) A statement of the specific relief or order sought,
- 3) A statement of the facts and authority that support the relief or order sought.

b) Motions shall be acted on by the Committee or an Administrative Law Judge duly appointed for the proceeding. A written motion will be disposed of by written order and on notice to all parties.

(Source: Added by emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998)

Section 1455.497 ContinuancesEMERGENCY

a) A request for continuance of a hearing shall be subject to the discretion of the hearing officer.

- 1) Such continuance may be granted, for good cause shown, provided the request is received by the hearing officer and each party or authorized representative of record not less than 5 days prior to the latest hearing date unless good cause for a continuance is shown prior to or during the hearing or between hearing dates due to the absence of material evidence, sudden unavailability of counsel, student illness of a party or an essential witness, or similar reasons. Such request shall be in writing, supported by an affidavit, and shall set forth alleged grounds for the request.

2) Oral requests for continuances shall not be granted unless made during the hearing for good cause.

3) Good cause includes, but is not limited to, service in the armed forces or serious illness relating to either party, that party's authorized representative of record, or essential witnesses, or sudden unavailability of counsel.

b) A continuance, when granted, shall state a date certain, not more than 60 days from the prior scheduled hearing date, when the hearing shall reconvene.

OFFICE OF BANKS AND REAL ESTATE  
NOTICE OF EMERGENCY AMENDMENT

(Source: Added by emergency amendment at 22 Ill. Reg. effective April 29, 1998)

Section 1455.500 Evidence  
EMERGENCY

- a) The rules of evidence and privilege as applied to civil cases in the circuit courts of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Immaterial, irrelevant, or unduly repetitious material shall be excluded. A copy of the whole or any part of an admissible book, record, paper, or memorandum of the Agency that is made by photostatic or other method of accurate and permanent reproduction may be admitted in evidence at the hearing without further proof of the accuracy or authenticity of such copy. Objections to evidentiary offers may be made and shall be noted in the record.
- b) Official notice may be taken of matters of which circuit courts of this State may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within the Agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The Agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.

(Source: Added by emergency amendment at 22 Ill. Reg. effective April 29, 1998)

OFFICE OF BANKS AND REAL ESTATE  
NOTICE OF EMERGENCY AMENDMENT

Section 1455.APPENDIX A Caption for a Case Filed by the Division  
EMERGENCY

STATE OF ILLINOIS  
OFFICE OF BANKS AND REAL ESTATE  
REAL ESTATE APPRAISAL ADMINISTRATIVE DIVISION

OFFICE OF BANKS AND REAL ESTATE 1  
REAL ESTATE APPRAISAL ADMINISTRATIVE DIVISION 1  
of the State of Illinois, 1  
Complainant 1  
v. 1  
(NAME OF RESPONDENT) 1  
(License Number) 1  
Respondent. 1

COMPLAINT

(Source: Added by emergency amendment at 22 Ill. Reg. effective April 29, 1998)

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## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENT

Section 1455.APPENDIX B Caption for a Case Filed by the Petitioner  
EMERGENCY

**EMERGENCY**

STATE OF ILLINOIS

**OFFICE OF BANKS AND REAL ESTATE**

**REAL ESTATE APPRAISAL ADMINISTRATION DIVISION**

## In RE the Petition for Restoration of

No.

—

—

—

—

( )

(NAME OF PETITIONER)

(License Number),

Petitioner.

# PETITION FOR HEARING

(Source: Added by emergency amendment at 22 Ill. Reg. effective April 29, 1998)

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Plumbing Code

- 2) Code Citation: 77 Ill. Adm. Code 890

- 3) Register Citation to Notice of Proposed Rules: 22 Ill. Reg.6513; April 10, 1998

- 4) Dates, Times and Locations of Public Hearings:

May 22, 1998

10:30 a.m.

Illinois Department of Public Health

4th Floor Conference Room

525 West Jefferson Street

Springfield, Illinois 62761

- 5) Other Pertinent Information: The hearings will be held for the sole purpose of gathering public comment on the proposed amendments. Persons interested in presenting testimony at this hearing are advised that the Department will adhere to the following procedures in the conduct of the hearings:

- A. Each person presenting oral testimony shall provide to the hearing officer a written copy of such testimony at the time the oral testimony is presented.
- B. No person will be recognized to speak for a second time until all persons wishing to testify have done so. The hearing officer may impose a time limit for testimony, if necessary, to allow each person who wishes to speak time to do so.
- C. In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the hearing officer may impose such other rules of procedure, including the order of the call of witnesses as he/she deems necessary.

- 6) Name and Address of Agency Contact Person: Questions regarding the public hearings shall be directed to:

Gail M. DeVito

Illinois Department of Public Health

535 West Jefferson Street 5th Floor

Springfield, Illinois 62761

(217) 782-2043



## JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING  
ROOM D-1  
SPRINGFIELD, ILLINOIS  
9:00 A.M.  
MAY 19, 1998

**NOTICES:** Due to Register submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting.

*It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706*

**RULEMAKINGS SCHEDULED FOR JCAR REVIEW**

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

**PROPOSED RULEMAKINGS**Attorney General

1. Programmatic and Fiscal Requirements for Administering Funds Under the Violent Crime Victims Assistance Act (89 Ill Adm Code 1100)  
-First Notice Published: 22 Ill Reg 3218 - 2/13/98  
-Expiration of Second Notice: 6/7/98

Capital Development Board

2. Standards for Award of Grants Elementary and Secondary Schools Capital Assistance Program (71 Ill Adm Code 40)  
-First Notice Published: 22 Ill Reg 4534 - 3/13/98  
-Expiration of Second Notice: 6/13/98

Children and Family Services

3. Licensing Standards for Child Welfare Agencies (89 Ill Adm Code 401)  
-First Notice Published: 21 Ill Reg 6286 - 5/30/97  
-Expiration of Second Notice: 5/30/97

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING  
ROOM D-1  
SPRINGFIELD, ILLINOIS  
9:00 A.M.  
MAY 19, 1998

Criminal Justice Information Authority

4. Fees For Processing Requests For Conviction Information (20 Ill Adm Code 1570)  
-First Notice Published: 22 Ill Reg 21 - 1/2/98  
-Expiration of Second Notice: 5/21/98

Financial Institutions

5. Consumer Installment Loan Act (38 Ill Adm Code 110)  
-First Notice Published: 22 Ill Reg 3258 - 2/13/98  
-Expiration of Second Notice: 6/10/98
6. Financial Planning and Management Service Act (38 Ill Adm Code 140)  
-First Notice Published: 22 Ill Reg 3300 - 2/13/98  
-Expiration of Second Notice: 6/10/98

7. Sales Finance Agency Act (38 Ill Adm Code 160)  
-First Notice Published: 22 Ill Reg 3314 - 2/13/98  
-Expiration of Second Notice: 6/10/98

Gaming Board

8. Riverboat Gambling (86 Ill Adm Code 3000)  
-First Notice Published: 22 Ill Reg 93 - 1/2/98  
-Expiration of Second Notice: 5/21/98

Insurance

9. Noncompliance Notification and Penalties (50 Ill Adm Code 4435)  
-First Notice Published: 22 Ill Reg 2645 - 2/6/98  
-Expiration of Second Notice: 5/30/98

Natural Resources

10. Forestry Development Cost-Share Program (17 Ill Adm Code 1536)  
-First Notice Published: 22 Ill Reg 2651 - 2/6/98  
-Expiration of Second Notice: 6/21/98

11. Operation of Watercraft Carrying Passengers for Hire on Illinois Waters (17 Ill Adm Code 2080)  
-First Notice Published: 22 Ill Reg 4232 - 2/27/98  
-Expiration of Second Notice: 6/6/98

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING

ROOM D-1

SPRINGFIELD, ILLINOIS

9:00 A.M.

MAY 19, 1998

12. Consignment of Licenses, Stamps and Permits (17 Ill Adm Code 2520)  
-First Notice Published: 22 Ill Reg 4225 - 2/27/98  
-Expiration of Second Notice: 5/30/98
  13. Repeal of Illinois Weather Modification Control Act (68 Ill Adm Code 900)  
-First Notice Published: 22 Ill Reg 3660 - 2/20/98  
-Expiration of Second Notice: 6/4/98
- Nuclear Safety
14. Repeal of Registration of Radon Detection and Mitigation Services (32 Ill Adm Code 420)  
-First Notice Published: 22 Ill Reg 3393 - 2/13/98  
-Expiration of Second Notice: 5/27/98
  15. Licensing of Radon Detection and Mitigation Services (32 Ill Adm Code 422)  
-First Notice Published: 22 Ill Reg 3338 - 2/13/98  
-Expiration of Second Notice: 5/23/98
- Pollution Control Board
16. Permits and General Provisions (35 Ill Adm Code 201)  
-First Notice Published: 21 Ill Reg 16023 - 12/12/97  
-Expiration of Second Notice: 6/4/98
  17. Organic Material Emission Standards and Limitations (35 Ill Adm Code 215)  
-First Notice Published: 22 Ill Reg 3674 - 2/20/98  
-Expiration of Second Notice: 6/3/98
  18. Tiered Approach to Corrective Action Objectives (35 Ill Adm Code 742)  
-First Notice Published: 21 Ill Reg 16982 - 12/26/97  
-Expiration of Second Notice: 6/4/98
- Professional Regulation
19. Illinois Dental Practice Act (68 Ill Adm Code 1220)  
-First Notice Published: 22 Ill Reg 2066 - 1/23/98  
-Expiration of Second Notice: 6/15/98
  20. Detection of Deception Examiners Act (68 Ill Adm Code 1230)

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING

ROOM D-1

SPRINGFIELD, ILLINOIS

9:00 A.M.

MAY 19, 1998

21. Environmental Health Practitioner Licensing Act (68 Ill Adm Code 1247)  
-First Notice Published: 22 Ill Reg 4600 - 3/13/98  
-Expiration of Second Notice: 6/12/98
  22. Professional Geologist Licensing Act (68 Ill Adm Code 1252)  
-First Notice Published: 22 Ill Reg 3401 - 2/13/98  
-Expiration of Second Notice: 5/28/98
  23. Illinois Landscape Architecture Act of 1989 (68 Ill Adm Code 1275)  
-First Notice Published: 22 Ill Reg 2752 - 2/6/98  
-Expiration of Second Notice: 5/21/98
  24. Medical Practice Act of 1987 (68 Ill Adm Code 1285)  
-First Notice Published: 22 Ill Reg 3706 - 2/20/98  
-Expiration of Second Notice: 6/15/98
- Property Tax Appeal Board
25. Practice and Procedure for Hearings Before the Property Tax Appeal Board (86 Ill Adm Code 1910)  
-First Notice Published: 22 Ill Reg 3718 - 2/20/98  
-Expiration of Second Notice: 5/27/98
- Public Aid
26. Medical Payment (89 Ill Adm Code 140)  
-First Notice Published: 22 Ill Reg 3727 - 2/20/98  
-Expiration of Second Notice: 5/22/98
  27. Skilled Nursing and Intermediate Care Facilities Code (77 Ill Adm Code 300)  
-First Notice Published: 21 Ill Reg 15425 - 12/5/97  
-Expiration of Second Notice: 6/13/98
  28. Sheltered Care Facilities Code (77 Ill Adm Code 330)  
-First Notice Published: 21 Ill Reg 15412 - 12/5/97  
-Expiration of Second Notice: 6/13/98

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING  
ROOM D-1  
SPRINGFIELD, ILLINOIS  
9:00 A.M.  
MAY 19, 1998

29. Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill Adm Code 350)  
-First Notice Published: 21 Ill Reg 15379 - 12/5/97  
-Expiration of Second Notice: 6/13/98
  30. Long-Term Care for Under Age 22 Facilities Code (77 Ill Adm Code 390)  
-First Notice Published: 21 Ill Reg 15396 - 12/5/97  
-Expiration of Second Notice: 6/13/98
  31. Repeal of Standards for Approval of Milk Laboratories (77 Ill Adm Code 463)  
-First Notice Published: 21 Ill Reg 14199 - 12/5/97  
-Expiration of Second Notice: 6/13/98
  32. Certification and Operation of Environmental Laboratories (77 Ill Adm Code 465)  
-First Notice Published: 21 Ill Reg 14166 - 10/31/97  
-Expiration of Second Notice: 5/22/98
  33. Repeal of Joint Rules of the Illinois Environmental Protection Agency, the Illinois Department of Public Health and the Illinois Department of Nuclear Safety: Certification and Operation of Environmental Laboratories (35 Ill Adm Code 190)  
-First Notice Published: 22 Ill Reg 1106 - 1/9/98  
-Expiration of Second Notice: 6/13/98
  34. Repeal of Joint Rules of the Illinois Environmental Protection Agency, the Illinois Department of Public Health and the Illinois Department of Nuclear Safety: Certification and Operation of Environmental Laboratories (35 Ill Adm Code 183)  
-First Notice Published: 22 Ill Reg 23 - 1/2/98  
-Expiration of Second Notice: 6/13/98
- Racing Board
35. Licensing (11 Ill Adm Code 502)  
-First Notice Published: 22 Ill Reg 3759 - 2/20/98  
-Expiration of Second Notice: 5/23/98
- Revenue
36. Retailers' Occupation Tax (86 Ill Adm Code 130)  
-First Notice Published: 22 Ill Reg 2070 - 1/23/98

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING  
ROOM D-1  
SPRINGFIELD, ILLINOIS  
9:00 A.M.  
MAY 19, 1998

- Expiration of Second Notice: 5/21/98
  37. Retailers' Occupation Tax (86 Ill Adm Code 130)  
-First Notice Published: 22 Ill Reg 3403 - 2/13/98  
-Expiration of Second Notice: 5/21/98
  38. Telecommunications Excise Tax (86 Ill Adm Code 495)  
-First Notice Published: 22 Ill Reg 202 - 1/2/98  
-Expiration of Second Notice: 5/21/98
  39. Energy Assistance Charge (86 Ill Adm Code 516)  
-First Notice Published: 22 Ill Reg 172 - 1/2/98  
-Expiration of Second Notice: 6/6/98
  40. Renewable Energy Resources and Coal Technology Development Assistance Charge (86 Ill Adm Code 517)  
-First Notice Published: 22 Ill Reg 2761 - 2/6/98  
-Expiration of Second Notice: 6/6/98
  41. Payment of Taxes by Electronic Funds Transfer (86 Ill Adm Code 750)  
-First Notice Published: 22 Ill Reg 1113 - 1/9/98  
-Expiration of Second Notice: 6/6/98
- Secretary of State
42. Rulemaking (1 Ill Adm Code 100)  
-First Notice Published: 22 Ill Reg 5416 - 3/20/98  
-Expiration of Second Notice: 6/18/98
  43. Uniform Commercial Code (14 Ill Adm Code 180)  
-First Notice Published: 22 Ill Reg 1117 - 1/9/98  
-Expiration of Second Notice: 6/12/98
- Student Assistance Commission
44. General Provisions (23 Ill Adm Code 2700)  
-First Notice Published: 22 Ill Reg 2809 - 2/6/98  
-Expiration of Second Notice: 5/27/98
  45. Federal Family Education Loan Program (FFELP) (23 Ill Adm Code 2720)  
-First Notice Published: 22 Ill Reg 2788 - 2/6/98  
-Expiration of Second Notice: 5/27/98



## JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING  
ROOM D-1  
SPRINGFIELD, ILLINOIS  
9:00 A.M.  
MAY 19, 1998

46. Illinois National Guard (ING) Grant Program (23 Ill Adm Code 2730)  
-First Notice Published: 22 Ill Reg 2837 - 2/6/98  
-Expiration of Second Notice: 5/27/98
47. Illinois Veteran Grant (IVG) Program (23 Ill Adm Code 2733)  
-First Notice Published: 22 Ill Reg 2851 - 2/6/98  
-Expiration of Second Notice: 5/27/98
48. Monetary Award Program (MAP) (23 Ill Adm Code 2735)  
-First Notice Published: 22 Ill Reg 2885 - 2/6/98  
-Expiration of Second Notice: 5/27/98
49. Illinois Incentive for Access (IIA) Program (23 Ill Adm Code 2736)  
-First Notice Published: 22 Ill Reg 2832 - 2/6/98  
-Expiration of Second Notice: 5/27/98
50. Robert C. Byrd Honors Scholarship Program (23 Ill Adm Code 2755)  
-First Notice Published: 22 Ill Reg 2899 - 2/6/98  
-Expiration of Second Notice: 5/27/98
51. State Scholar Program (23 Ill Adm Code 2760)  
-First Notice Published: 22 Ill Reg 2907 - 2/6/98  
-Expiration of Second Notice: 5/27/98
52. Merit Recognition Scholarship (MRS) Program (23 Ill Adm Code 2761)  
-First Notice Published: 22 Ill Reg 2871 - 2/6/98  
-Expiration of Second Notice: 5/27/98
53. Minority Teachers of Illinois (MTI) Scholarship Program (23 Ill Adm Code 2763)  
-First Notice Published: 22 Ill Reg 2877 - 2/6/98  
-Expiration of Second Notice Period: 5/27/98
54. David A. DeBolt Teacher Shortage Scholarship (DTSS) Program (23 Ill Adm Code 2764)  
-First Notice Published: 22 Ill Reg 2780 - 2/6/98  
-Expiration of Second Notice: 5/27/98
55. Illinois Special Education Teacher Waiver (SETTW) Program (23 Ill Adm Code 2765)  
-First Notice Published: 22 Ill Reg 2844 - 2/6/98  
-Expiration of Second Notice: 5/27/98

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING  
ROOM D-1  
SPRINGFIELD, ILLINOIS  
9:00 A.M.  
MAY 19, 1998

56. College Savings Bond Bonus Incentive Grant (BIG) Program (23 Ill Adm Code 2771)  
-First Notice Published: 22 Ill Reg 2772 - 2/6/98  
-Expiration of Second Notice: 5/27/98
  57. Limitation, Suspension and Termination (L,S&T) Proceedings (23 Ill Adm Code 2790)  
-First Notice Published: 22 Ill Reg 2859 - 2/6/98  
-Expiration of Second Notice: 5/27/98
- Transportation
58. Inspection Procedures for Type I School Buses (92 Ill Adm Code 441)  
-First Notice Published: 21 Ill Reg 15093 - 12/1/97  
-Expiration of Second Notice: 6/10/98
- EMERGENCY AND PEREMPTORY RULEMAKINGS
- Central Management Services
59. Pay Plan (80 Ill Adm Code 310) (Peremptory)  
-Notice Published: 22 Ill Reg 7053 - 4/17/98
  60. Pay Plan (80 Ill Adm Code 310) (Peremptory)  
-Notice Published: 22 Ill Reg 7320 - 4/24/98
  61. Pay Plan (80 Ill Adm Code 310) (Peremptory)  
-Notice Published: 22 Ill Reg 7692 - 5/1/98
- Children and Family Services
62. Services Delivered by the Department (89 Ill Adm Code 302) (Emergency)  
-Notice Published: 22 Ill Reg 7289 - 4/24/98
- Commerce Commission
63. Municipal Electric Tax Rates (83 Ill Adm Code 418) (Emergency)  
-Notice Published: 22 Ill Reg 7304 - 4/24/98
- Teachers' Retirement Systems of the State of Illinois
64. The Administration and Operation of the Teachers' Retirement System (80 Ill Adm Code 1650) (Emergency)

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING  
ROOM D-1  
SPRINGFIELD, ILLINOIS  
9:00 A.M.  
MAY 19, 1998

-Notice Published: 22 Ill Reg 7314 - 4/24/98

## AGENCY RESPONSES

Environmental Protection Agency

65. Procedures for Determining Water Quality Based Permit Limitations for National Pollutant Discharge Elimination System Dischargers to the Lake Michigan Basin (35 Ill Adm Code 352)

Pollution Control Board

66. Standards for the Management of Used Oil (35 Ill Adm Code 739)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of April 28, 1998 through May 4, 1998 and have been scheduled for review by the Committee at its May 19, 1998 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
6/12/98	Secretary of State, Uniform Commercial Code (14 Ill Adm Code 180)	1/9/98 22 Ill Reg 1117	5/19/98
6/12/98	Department of Professional Regulation, De- tention of Deception Examiners Act (68 Ill Adm Code 1230)	3/13/98 22 Ill Reg 4600	5/19/98
6/13/98	Capital Development Board, Standards for Award of Grants: Elementary and Secondary Schools Capital Assistance Program (71 Ill Adm Code 40)	3/13/98 22 Ill Reg 4534	5/19/98
6/13/98	Department of Public Health, Skilled Nursing and Intermediate Care Facilities Code (77 Ill Adm Code 300)	12/5/97 21 Ill Reg 15425	5/19/98
6/13/98	Department of Public Health, Sheltered Care Facilities Code (77 Ill Adm Code 330)	12/5/97 21 Ill Reg 15412	5/19/98
6/13/98	Department of Public Health, Long-Term Care for Under Age 22 Facilities Code (77 Ill Adm Code 390)	12/5/97 21 Ill Reg 15396	5/19/98
6/13/98	Department of Public Health, Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill Adm Code 350)	12/5/97 21 Ill Reg 15379	5/19/98
6/13/98	Department of Public Health, Repeal of Standards for Approval of Milk Laboratories (77 Ill Adm Code 463)	10/31/97 21 Ill Reg 14199	5/19/98

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

6/13/98	Department of Public Health, Repeal of Joint Rules of the Illinois Environmental Protection Agency, the Illinois Department of Public Health and the Illinois Department of Nuclear Safety: Certification and Operation of Environmental Laboratories (35 Ill Adm Code 190)	1/9/98 22 Ill Reg 1106	5/19/98
6/13/98	Department of Public Health, Repeal of the Joint Rules of the Illinois Environmental Protection Agency, the Illinois Department of Public Health and the Illinois Department of Nuclear Safety: Certification and Operation of Environmental Laboratories (35 Ill Adm Code 183)	1/2/98 22 Ill Reg 23	5/19/98
6/15/98	Department of Professional Regulation, Medical Practice Act of 1987 (68 Ill Adm Code 1285)	2/20/98 22 Ill Reg 3706	5/19/98
6/15/98	Department of Professional Regulation, Illinois Dental Practice Act (68 Ill Adm Code 1220)	1/23/98 22 Ill Reg 2066	5/19/98

## PROCLAMATIONS

## 98-210

## DANK-SPATZEN GERMAN AMERICAN CHILDREN'S CHOIR DAY

Whereas, in honor of the 30th anniversary, the DANK-Spatzen German American Children's Choir will celebrate on April 25, 1998, at the DANK House, 4740 N. Western Avenue in Chicago; and

Whereas, the DANK-Spatzen German American Children's Choir has given children the opportunity to perform and promote German American heritage and culture through folk songs; and

Whereas, inspired by its founder and director, Alexandra Pradella-Ott, the DANK-Spatzen German American Children's Choir has delighted audiences on both sides of the Atlantic Ocean; and

Whereas, the DANK-Spatzen German American Children's Choir appeared on television, performed on stage with well-known celebrities, and produced records; and

Whereas, the DANK-Spatzen German American Children's Choir continues to serve its community by showcasing the talents and by preserving ethnic customs and traditions; and

Whereas, Illinois is proud to have the DANK-Spatzen German American Children's Choir as an integral part of its cultural life;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 25, 1998, as DANK-SPATZEN GERMAN AMERICAN CHILDREN'S CHOIR DAY in Illinois.

Issued by the Governor April 15, 1998.

Filed by the Secretary of State April 28, 1998.

## 98-211

## HISPANIC HERITAGE MONTH

Whereas, Illinois' Hispanic-American population continues to grow significantly and contributes greatly to the economic, cultural and civic prosperity of our State; and

Whereas, Hispanic-Americans have demonstrated their dedication to the ideals and principles upon which the United States was founded; and

Whereas, the countries of Belize, Bolivia, Mexico, Nicaragua, Spain, Guatemala, Honduras, Chile, Costa Rica, and El Salvador celebrate independence days or national holidays between September 15 and October 15; and

Whereas, Congress approved a Joint Resolution, September 17, 1968, requesting and authorizing the president to annually issue a proclamation designating the one month period from September 15 to October 15 as National Hispanic Heritage Month;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 15-October 15, 1998, as HISPANIC HERITAGE MONTH in Illinois and urge all Illinoisans to recognize the contributions of Hispanics.

Issued by the Governor April 15, 1998.

Filed by the Secretary of State April 28, 1998.

## 98-212

## ILLINOIS CHURCH ACTION ON ALCOHOL PROBLEMS DAY

Whereas, the Illinois Church Action on Alcohol Problems traces its history



## PROCLAMATIONS

back to 1898 when the Anti-Saloon League of Illinois was born to educate Illinois' citizenry on the effects of alcohol and narcotics in all State-supported schools and colleges; and

Whereas, after the repeal of prohibition the Illinois Church Action on Alcohol Problems instituted a program to aid public schools in Illinois through speakers and resource materials in order to encourage abstinence from the use of beverage alcohol and harmful drugs; and

Whereas, the toll of alcohol and drugs includes tens of thousands of highway deaths, millions of injured people and costs billions of dollars to our nation's economy each year; and

Whereas, the Illinois Church Action on Alcohol Problems recognized that only treating victims cannot solve the problems associated with drugs and alcohol; and

Whereas, the Illinois Church Action on Alcohol Problems promotes prevention through education, assisting schools with instruction on the nature of various narcotics and their effects on the human system, and providing counseling and referral services; and

Whereas, the Illinois Church Action on Alcohol Problems continues to work to pass legislation such as lowering the blood alcohol content from .10 to .08, to keep our State safe; and

Whereas, April is Alcohol Awareness Month and this year the Illinois Church Action on Alcohol Problems celebrates its centennial anniversary;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 12, 1998, as ILLINOIS CHURCH ACTION ON ALCOHOL PROBLEMS DAY in Illinois, honoring their 100th year of service.

Issued by the Governor April 15, 1998.

Filed by the Secretary of State April 28, 1998.

98-213

## ILLINOIS STATE ENVIROTHON DAY

Whereas, the citizens and leaders of Illinois are very concerned about the proper management of our natural resources; and

Whereas, environmental education of our future leaders is a primary concern; and

Whereas, the Association of Illinois Soil and Water Conservation Districts, local Soil and Water Conservation Districts, and various partnership organizations have provided the Illinois State Envirothon competition for high school students annually in Illinois; and

Whereas, students from throughout the State learn a great deal of information and skills in the area of aquatics, forestry, soils, wildlife, and current environmental issues to prepare them to be wise future managers of our natural resources;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 5, 1998, as ILLINOIS STATE ENVIROTHON DAY in appreciation of the importance of environmental education and the proper management of our natural resources.

Issued by the Governor April 15, 1998.

Filed by the Secretary of State April 28, 1998.

98-214

## PROCLAMATIONS

## CHEERLEADING DAYS

Whereas, since 1898 a very special group of athletes have stood on the sidelines and cheered for athletic teams on all levels; and

Whereas, today, numerous cheerleading groups perform highly advanced technical skills in gymnastics and choreography while competing on the national and international levels; and

Whereas, many of these cheerleading groups have given new meaning to the spirit of cheerleading by extending themselves beyond the roles of supporters and competitors by performing and promoting acts of charity, good will and community service; and

Whereas, the thousand of volunteer hours cheerleaders put forth each year contribute to making cheerleaders one of the most highly honored and respected group of athletes in the world today; and

Whereas, over four million cheerleaders from every state in the nation will be celebrating the 100th Anniversary of Cheerleading in 1998; and

Whereas, the 1998 National Cheerleading Coaches Conference will be hosting cheerleading's biggest celebration ever in honor of cheerleading's 100th Anniversary this May 21-24;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 21-24, 1998, as CHEERLEADING DAYS in Illinois.

Issued by the Governor April 16, 1998.

Filed by the Secretary of State April 28, 1998.

98-215

## OFFICIAL OPENING DAY OF THE ILLINOIS AND MICHIGAN CANAL SESQUICENTENNIAL CELEBRATION

Whereas, construction of the Illinois and Michigan Canal began in 1836, with the first major internal improvement made by the State of Illinois; and

Whereas, when completed in 1848, the Illinois and Michigan Canal created a continuous water highway between the eastern seaboard and the Mississippi River, fueling a dramatic wave of growth and prosperity for the young State of Illinois; and

Whereas, the Canal, shipping people and goods for 85 years until its closing in 1933, was the first link in the transportation system that made Chicago and the surrounding region the crossroads of the nation; and

Whereas, in 1963, the I&M Canal was designated as a National Historic Landmark; and

Whereas, the Canal is now the spine of the I&M Canal State Trail Park System and the centerpiece for the nation's first National Heritage Corridor, which has brought public and private partners together to preserve the region's natural and cultural resources, revitalize economics and enhance quality of life; and

Whereas, the Illinois and Michigan Canal is celebrating its 150th anniversary in 1998; and

Whereas, goals for the anniversary celebration include heightening awareness and appreciation of the history and impact of the I&M Canal, implementing projects that leave a lasting physical legacy of the I&M Canal for future generations, and furthering regional revitalization and bringing people

## PROCLAMATIONS

and communities together from throughout the Heritage Corridor;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 18, 1998, as the Official Opening Day of the Sesquicentennial Celebration of the Illinois and Michigan Canal to honor and celebrate the historic significance, present impact and future potential of the I&M Canal.

Issued by the Governor April 16, 1998.

Filed by the Secretary of State April 28, 1998.

98-216

## SHIP WEEK

Whereas, Illinois' aging and disabled populations are expanding dramatically each year; and

Whereas, the insurance programs that have been developed to serve these populations are complex and confusing; and

Whereas, government alone cannot solve all of the problems that this current insurance system has created; and

Whereas, Senior Health Insurance Program (SHIP) volunteers form the foundation of the Illinois Insurance Department's effort to educate and assist these Medicare beneficiaries; and

Whereas, more than 800 volunteers have contributed nearly 96,000 hours to assist over 57,000 clients, thereby saving the Illinois citizens the excess of \$1.75 million; and

Whereas, the SHIP volunteers, who contribute both their time and talents to better the lives of Illinois' Medicare beneficiaries, are valuable citizens; and

Whereas, 1998 marks the 10th anniversary of the SHIP program in Illinois; Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 1-5, 1998, as SHIP WEEK in Illinois.

Issued by the Governor April 26, 1998.

Filed by the Secretary of State April 28, 1998.

98-217

## CINCO DE MAYO DAY

Whereas, Mexico celebrates the Cinco de Mayo on May 5, recalling its struggle for freedom from France in the noted Batalla de Puebla on May 5, 1862; and

Whereas, the Mexican community is an integral part of our rich cultural heritage and has also contributed greatly to our economic vitality; and

Whereas, the Mexican community is among the largest ethnic groups in the State; and

Whereas, our successful history is strengthened today by organizations such as the Cermak Road Chamber of Commerce; and

Whereas, the Scholarship Banquet will be held on May 1, 1998, and the 5th Annual International Luncheon will be held on May 2, 1998, at the Apollo 2000 in Chicago, as part of the Cinco de Mayo festivities;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 5, 1998, as CINCO DE MAYO DAY in Illinois and invite all Illinois citizens to join men in the celebration of the triumphant spirit of the Cinco de Mayo

## PROCLAMATIONS

holiday.

Issued by the Governor April 17, 1998.

Filed by the Secretary of State April 28, 1998.

98-218

## SAFE KIDS WEEK/SAFE KIDS AMERICA

Whereas, each year, nearly 300 Illinois children younger than 15 years old die from unintentional injuries; and

Whereas, each year, more than 5,000 Illinois children younger than 15 years old are injured severely enough to be admitted to one of the State's trauma centers; and

Whereas, these tragic injuries, although often called accidents, are often predictable and preventable; and

Whereas, the National SAFE KIDS Campaign promotes childhood injury prevention by uniting diverse groups into local and state coalitions, developing innovative educational tools and strategies, initiating public policy changes, promoting new technology and raising awareness through the media; and

Whereas, the National SAFE KIDS Campaign, with the backing of Johnson & Johnson, has launched SAFE KIDS AMERICA, an unprecedented initiative to unite forces with state and local SAFE KIDS coalitions and other childhood injury prevention activists to disseminate vital child safety information to countless homes; and

Whereas, the Illinois SAFE KIDS Coalitions, coordinated by the Illinois Department of Public Health, is a cooperative effort between the National SAFE KIDS Campaign, local health departments, hospitals and other State agencies; and

Whereas, First Lady Brenda Edgar is the 1998 Illinois SAFE KIDS honorary chairperson; and

Whereas, communities throughout Illinois will hold special childhood injury prevention activities during National SAFE KIDS week, May 2-9, 1998, to promote increased child safety;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 2-9, 1998, as SAFE KIDS WEEK in Illinois and encourage all citizens to join me in supporting the efforts and activities of SAFE KIDS AMERICA to prevent childhood injuries.

Issued by the Governor April 17, 1998.

Filed by the Secretary of State April 28, 1998.

98-218

## SAFE KIDS WEEK

## SAFE KIDS AMERICA (REVISED)

Whereas, each year, nearly 300 Illinois children younger than 15 years old die from unintentional injuries; and

Whereas, each year, more than 5,000 Illinois children younger than 15 years old are injured severely enough to be admitted to one of the State's trauma centers; and

Whereas, these tragic injuries, although often called accidents, are often

## PROCLAMATIONS

predictable and preventable; and

Whereas, the National SAFE KIDS Campaign promotes childhood injury prevention by uniting diverse groups into local and state coalitions, developing innovative educational tools and strategies, initiating public policy changes, promoting new technology and raising awareness through the media; and

Whereas, the National SAFE KIDS Campaign, with the backing of Johnson & Johnson, has launched SAFE KIDS AMERICA, an unprecedented initiative to unite forces with state and local SAFE KIDS coalitions and other childhood injury prevention activists to disseminate vital child safety information to countless homes; and

Whereas, the Illinois SAFE KIDS Coalition, coordinated by the Illinois Department of Public Health, is a cooperative effort between the National SAFE KIDS Campaign, local health departments, hospitals and other State agencies; and

Whereas, First Lady Brenda Edgar is the 1998 Illinois SAFE KIDS honorary chairperson; and

Whereas, communities throughout Illinois will hold special childhood injury prevention activities during National SAFE KIDS week, May 2-9, 1998, to promote increased child safety;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 2-9, 1998, as SAFE KIDS WEEK in Illinois and encourage all citizens to join me in supporting the efforts and activities of SAFE KIDS AMERICA to prevent childhood injuries.

Issued by the Governor April 24, 1998.

Filed by the Secretary of State May 1, 1998.

98-219

## THE ANCONA SCHOOL DAY

Whereas, The Ancona School, an independent school on Chicago's South Side, is celebrating 35 years of educational excellence on May 2, 1998; and

Whereas, Ancona's mission statement symbolizes the ideals of American education; and

Whereas, Ancona's fostering of creative problem-solving prepares its children to be the flexible, critical thinkers the State will need to guide our future; and

Whereas, the school's emphasis on confident risk-taking builds self esteem and responsibility; and

Whereas, The Ancona School's commitment to independent, life-long learning means its graduates will carry with them lessons, skills and friendships necessary to pursue new challenges in secondary school, college and beyond; and

Whereas, The Ancona School remains committed to its South Side Chicago community, and the volunteer spirit of its students and faculty make the Hyde Park-Kenwood community better and Illinois stronger;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 2, 1998, as THE ANCONA SCHOOL DAY in Illinois.

Issued by the Governor April 17, 1998.

Filed by the Secretary of State April 28, 1998.

## PROCLAMATIONS

98-220

## THE BIG HELP WEEK

Whereas, research shows that young people who participate early in life with activities that strengthen and support their local community also strengthen their sense of pride and are less likely to become involved in self-destructive activities later in life; and

Whereas, as a State, we consistently strive to provide examples of how individuals come together and make positive changes through volunteer efforts; and

Whereas, young people are being encouraged in these efforts by Nickelodeon, "the network for kids," through a multi-year campaign, The Big Help; and

Whereas, eight million kids pledged more than 85 million hours of volunteer time to their local communities during Nickelodeon's fourth annual Big Help-a-thon on October 19; and

Whereas, Nickelodeon also sponsors The Big Help Week, during which kid volunteers join Nickelodeon's partner organizations and others in community service projects;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 18-25, 1998, as THE BIG HELP WEEK in Illinois in recognition of all the young people volunteering today, showing they can and do make a difference in the State.

Issued by the Governor April 17, 1998.

Filed by the Secretary of State April 28, 1998.

98-221

## TODD T. LIZAK DAY

Whereas, Todd T. Lizak was born, raised, and educated in the State of Illinois; and

Whereas, Todd T. Lizak developed an early interest in local and State politics; and

Whereas, Todd T. Lizak has the distinction of serving both the Thompson and the Edgar Administrations continuously for the past 21 years; and

Whereas, Todd has competently filled various positions, successfully bridging both administrations; and

Whereas, on this the 21st anniversary of his service to the Office of the Governor, Todd now moves on to bring his expertise to the Illinois Film Office;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim Friday, May 1, 1998, as TODD T. LIZAK DAY in Illinois, and offer my best wishes for future success.

Issued by the Governor April 17, 1998.

Filed by the Secretary of State April 28, 1998.

98-222

## WKTO-FM AND MIKE IN THE MORNING DAY

Whereas, "Mike in the Morning" has been waking up listeners in east central Illinois for 20 years, totaling approximately 5,000 radio shows and



## PROCLAMATIONS

20,000 hours of broadcasting by one person; and  
Whereas, "Mike in the Morning", heard from 6 a.m. to 10 a.m. weekdays at 92.5 FM, is the longest running morning show in Champaign-Urbana; and  
Whereas, WKIO has been entertaining listeners for 20 years, totaling over 175,000 hours of playing the greatest hits of all time; and

Whereas, WKIO has provided outstanding service to the Champaign-Urbana community for over 20 years and has been a loyal supporter of University of Illinois athletics; and

Whereas, WKIO has had the same management team in place since 1979 and has maintained a consistent commitment to the Champaign-Urbana area;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 8, 1998, as WKIO-FM AND MIKE IN THE MORNING DAY in Illinois.

Issued by the Governor April 17, 1998.

Filed by the Secretary of State April 28, 1998.

98-223

## ACCESS LIVING DAY

Whereas, the largest minority in the United States comprises nearly one-fifth of the nation's population, all of whom are Americans living with a disability, including the more than 1,500,000 people with disabilities living in Illinois; and

Whereas, the Department of Human Services is working to make Illinois the nation's most accessible State through advocacy, education, training and direct services for people with disabilities of all ages in all aspects of life; and

Whereas, Access Living, an organization involved in education and advocacy efforts across the city, State and country, which is governed and staffed by a majority of people with disabilities, shares the State of Illinois' goals of independence, empowerment and inclusion of people with disabilities; and

Whereas, Access Living fosters the dignity, pride and self esteem of people with disabilities and enhances the opportunities available to them by offering peer-oriented independent living services, public education and awareness, individual and systemic advocacy and the enforcement of civil rights on behalf of people with disabilities; and

Whereas, for the past 18 years, Access Living has served nearly 3,000 people annually through its innovative programs within the community; and

Whereas, on June 2, 1998, Access Living will hold its 1998 Access Living Benefit, honoring Academy Award winning actress Linda Hunt;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 2, 1998, as ACCESS LIVING DAY in Illinois and urge all citizens to be aware of the many worthwhile contributions this organization has made.

Issued by the Governor April 20, 1998.

Filed by the Secretary of State April 28, 1998.

98-224

## AGELESS HEROES DAY

Whereas, as part of their historic commitment to caring for America's aging population, the Blue Cross and Blue Shield System introduced the Ageless Heroes awards program in January and has sponsored a new PBS documentary,

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AGELESS HEROES, scheduled to air April 29 in most areas; and  
Whereas, the Blue Cross and Blue Shield Association is a membership organization of 55 independent, locally operated companies called Member Plans located in 50 states, the District of Columbia and Puerto Rico; and

Whereas, for nearly 70 years, Blue Cross and Blue Shield Plans have provided the highest quality health care financing services that today are depended on by more than 68.7 million consumers nationwide; and

Whereas, the Blue Cross and Blue Shields Association serves as a trade association to the independent Member Plans and as a contractor to the federal government; and

Whereas, Blue Cross and Blue Shield Member Plans offer health insurance products to all segments of the population including individuals, small groups, seniors and large employer groups. Member Plans provide services that include health care financing, such as HMO, PPOs, POS and fee-for-service coverage; and

Whereas, on Monday, April 27, Blue Cross and Blue Shield Association and keynote speaker, former President George Bush, will honor five individuals, age 65 and older, who demonstrate that while achievements itself is noteworthy, the path to accomplishments also has its rewards;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 27, 1998, as AGELESS HEROES DAY in Illinois.

Issued by the Governor April 20, 1998

Filed by the Secretary of State April 28, 1998.

98-225

## BISHOP AARON HOLMES DAY

Whereas, Pastor Aaron Holmes, Jr., Pastor of New St. Mark Church founded by the Late Rev. A.J. Holmes, Sr., Overseer, will continue to inspire his local church as well as the Body of Christ to spiritual development and personal improvement for more effectual witnessing for Christ and His kingdom; and

Whereas, Pastor Aaron Holmes works to promote ministerial enhancement and leadership training, and counsel other pastors in planning a well balanced aggregation; and

Whereas, Pastor Aaron Holmes works to maintain, obey and defend the constitution, by-laws, doctrine and operation of the Church;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 24, 1998, as BISHOP AARON HOLMES DAY in Illinois.

Issued by the Governor April 20, 1998.

Filed by the Secretary of State April 28, 1998.

98-226

## SCULPTURE AND TOURISM MONTH

Whereas, Illinois has a rich tradition in its diverse cultural foundations; and  
Whereas, Illinois is world renown for its collection of public outdoor sculpture; and

Whereas, the State of Illinois has a vibrant community of committed and talented sculptors; and

Whereas, sculpture and the arts are a major economic force in Illinois

## PROCLAMATIONS

tourism, as has been demonstrated by such artistic events as "Pier Walk '98" and the 1998 International Sculpture Conference in Chicago; and

Whereas, we recognize the financial and educational value of supporting our sculptors as contributors to our culture and economy;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1998 as SCULPTURE AND TOURISM MONTH in Illinois and encourage all citizens to participate in the wide range of sculpture events which will contribute to cultural tourism, pay tribute to our local, national and international sculptors in the creation of their new work and involve our families, and specifically our children in experiencing the value of our many talented artisans of public works of art.

Issued by the Governor April 20, 1998.

Filed by the Secretary of State April 28, 1998.

98-227

## ARMENIAN MARTYRS DAY

Whereas, the Armenian community is commemorating the 83rd Anniversary of the Armenian Genocide; and

Whereas, 83 years ago Armenians were forced to witness the genocide of their relatives and the loss of their ancestral homelands. The extermination of 1.5 million Armenians and the forced deportation of countless others by Ottoman Turks between the years 1915 and 1923 is remembered every year; and

Whereas, Ancestral Armenian lands have not been returned to the Armenian people; and

Whereas, the Armenians continue to be a people full of hope, working side-by-side for the future of Armenia. Through their faith and pride in their heritage, the Armenians remain a strong and courageous people working toward rebuilding a firm foundation for Armenia; and

Whereas, Armenian-Americans have been forthright in their efforts to preserve their culture, heritage and language;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 24, 1998, as ARMENIAN MARTYRS DAY in Illinois in remembrance of the 83rd Anniversary of the Armenian Genocide.

Issued by the Governor April 21, 1998.

Filed by the Secretary of State May 1, 1998.

98-228

## CYTOTECHNOLOGY DAY

Whereas, cytotechnologists are specialists in the field of medical technology whose primary responsibility is to examine cells to detect a variety of diseases including cancer and precancerous changes; and

Whereas, these skilled professionals are called upon daily to examine various medical specimens and advise physicians, who in turn use this vital information to chart the course of treatment for their patients; and

Whereas, through the diagnostic skill of cytotechnologists, it is possible to detect cancer in the early stages of development, greatly contributing to the chances of survival, eliminating uterine cancer as the number one cause of death in women; and

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Whereas, there are a few hundred cytotechnologists in the State of Illinois, and only about 9,000 nationwide; and

Whereas, the Illinois Society of Cytology will join the American Society of Cytotechnology in observing National Cytotechnology Day on May 13, 1998;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 13, 1998, as CYTOTECHNOLOGY DAY in Illinois in honor of the valuable contributions cytotechnologists make to the health and well being of our citizens.

Issued by the Governor April 21, 1998.

Filed by the Secretary of State May 1, 1998.

98-229

## THERAPEUTIC RECREATION WEEK

Whereas, individual and organized forms of recreation and the use of leisure time are vital to the lives of all Americans, particularly persons with physical, mental, emotional and/or social limitations; and

Whereas, the purpose of therapeutic recreation is to facilitate the development, maintenance and expression of an appropriate leisure lifestyle; and

Whereas, therapeutic recreation is accomplished through the provision of programs and services which assist in eliminating barriers to leisure, developing leisure skills and attitudes, and optimizing leisure involvement; and

Whereas, the National Therapeutic Recreation Society, a branch of the National Recreation and Park Association, originated a week of observance to focus attention on the value of recreation and leisure experiences for all persons, including those with physical, mental, emotional and/or social limitations;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 12-18, 1998, as THERAPEUTIC RECREATION WEEK in Illinois.

Issued by the Governor April 21, 1998.

Filed by the Secretary of State May 1, 1998.

98-230

## VILLA PARK CHAMBER OF COMMERCE DAY

Whereas, the Villa Park Chamber of Commerce was founded in 1948; and

Whereas, successful efforts by its founders, Emil Novak and William Worley, created an organization that has grown from 10 to over 200 members; and

Whereas, the Villa Park Chamber of Commerce has dedicated itself to the mission of advancing commercial, industrial, and civic interests; and

Whereas, successful leadership by a series of Chamber Presidents has led to a dramatic increase in business and growth in Villa Park; and

Whereas, in its 50th year, the Villa Park Chamber of Commerce is concentrating on boosting membership and targeting home-based businesses; and

Whereas, the Chamber has created a fond remembrance of the past and a strong desire to build a better future; and

Whereas, the Villa Park Chamber of Commerce was created in April 1948;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April



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25, 1998, as VILLA PARK CHAMBER OF COMMERCE DAY in Illinois in honor of the organization's 50th Anniversary.

Issued by the Governor April 21, 1998.

Filed by the Secretary of State May 1, 1998.

98-231

**YWCA DAY OF COMMITMENT TO ELIMINATE RACISM  
AND ERASE THE HATE**

Whereas, the YWCA has a long and proud history of working toward racial justice; and

Whereas, in 1970, the YWCA adopted the One Imperative to "thrust its collective power toward the elimination of racism wherever it exists and by any means necessary;" and

Whereas, the YWCA is partnering with the White House Initiative on Race as part of the annual YWCA National Day of Commitment to Eliminate Racism and Erase the Hate; and

Whereas, the 21 YWCAs in Illinois of Metropolitan Chicago serve over 300,000 women and their families;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 30, 1998, as YWCA DAY OF COMMITMENT TO ELIMINATE RACISM AND ERASE THE HATE in Illinois in recognition of the mission and services of the YWCAs in Illinois.

Issued by the Governor April 21, 1998.

Filed by the Secretary of State May 1, 1998.

98-232

**MICHAEL G. BARTLEY CONGRATULATED**

Whereas, Michael G. Bartley graduated from Marquette University in 1984 with a bachelor's degree in Speech; and

Whereas, as news anchor and reporter for WITI-TV Fox Six News, Mike Bartley is a highly respected member of the media in Southeastern Wisconsin; and

Whereas, following his graduation from Marquette University in 1984, Mike began his broadcast journalism career at WBAY-TV in Green Bay; and has been with WITI-TV for the past 11 years; and

Whereas, Mr. Bartley is an Emmy-Award winning reporter with numerous honors from the Milwaukee Press Club, the Wisconsin Broadcasters Association, the Radio/Television News Directors Association, the Associated Press and other professional and civic organizations; and

Whereas, in 1997, "Mike Bartley's Operation Clean Up" helped raise \$30,000 and filled five semitrailers with food and clothing for flood victims in Minnesota; and

Whereas, Mike Bartley remains active in various campus-related organizations, volunteers with several local charities, and has received special recognition for his continued involvement with ALS and the Muscular Dystrophy Association;

Therefore, I, Jim Edgar, Governor of the State of Illinois, congratulate Michael G. Bartley on being recognized as 1998 Outstanding Alumnus in Speech Award at Marquette University and extend my best wishes for much continued

## PROCLAMATIONS

success.

Issued by the Governor April 22, 1998.

Filed by the Secretary of State May 1, 1998.

98-233

**HAMPTON INN & SUITES DAY**

Whereas, the Hampton Inn & Suites in Chicago officially celebrates its grand opening on Wednesday, April 29; and

Whereas, in the midst of the recent hotel boom in the Chicago area, the Hampton Inn & Suites is the first ground-up constructed hotel to open in the city in many years; and

Whereas, the Hampton Inn & Suites also is the first combination hotel of its kind in Chicago - pairing in single property standard guest rooms with a significant number of apartment-styled suites, adding 230 rooms to downtown Chicago; and

Whereas, located in the heart of the historic Courthouse District in River North, the hotel adds 60 permanent service industry jobs to the area; and

Whereas, in keeping with the architectural integrity of the Courthouse District, the Hampton Inn & Suites makes a significant design statement by honoring the Chicago School of Architecture and blending in with the neighborhood; and

Whereas, a number of Chicago influences will be featured in the hotel, including a collection of artifacts from famous Chicago buildings. This includes ornamental castings from Adler & Sullivan's Garrick Theater, which stood at 64 West Randolph from 1892 until its demolition in 1961; artifacts from Adler & Sullivan's Chicago Stock Exchange building, a LaSalle Street landmark completed in 1894 and demolished in 1972; and details from buildings designed by Frank Lloyd Wright, John Wellborn Root, Benjamin H. Marshall, Graham Anderson and Probst & White. All of the artifacts are from Al Friedman's private collection;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 21, 1998, as HAMPTON INN & SUITES DAY in Illinois.

Issued by the Governor April 22, 1998.

Filed by the Secretary of State May 1, 1998.

98-234

**MUHAMMAD ALI DAY**

Whereas, Muhammad Ali is known throughout the United States and the world of sports as "The Greatest Fighter of All Time" and is one of the most recognizable faces in world history; and

Whereas, he was born Cassius Marcellus Clay in Louisville, Kentucky, on January 17, 1942; and

Whereas, he was raised in Louisville, Kentucky, and began his boxing career at the age of 12; and

Whereas, the story of Muhammad Ali's amateur boxing career inspires amateur athletes throughout Illinois and the nation. He earned 100 victories in 108 bouts, including consecutive national titles in both the Amateur Athletic Union and Golden Gloves competition and an Olympic gold medal; and



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Whereas, Muhammad Ali ended his professional boxing career with a record of 56 wins and 5 losses; and

Whereas, 37 of those wins came from knockout; and

Whereas, Muhammad Ali was the "Heavyweight Champion of the World" a record three separate times and set the modern standard by which all other boxers would be judged; and

Whereas, he has been recognized by GQ Magazine as "Athlete of the Century;" and

Whereas, few athletes have evoked such overwhelming warmth, concern and deep emotion from a global population as has Muhammad Ali;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 25, 1998, as MUHAMMAD ALI DAY in Illinois.

Issued by the Governor April 22, 1998.

Filed by the Secretary of State May 1, 1998.

98-235

## OLDER AMERICANS MONTH

Whereas, the nation has acknowledged the achievements and contributions of citizens age 65 and older by observing Older Americans Month each May for over 30 years; and

Whereas, the U.S. Administration on Aging has selected the theme, Living Longer, Growing Stronger in America to draw attention to the remarkable longevity of our population and the fact that Americans are living fuller, more satisfying lives; and

Whereas, there is a growing recognition that aging can and should be a positive experience, and while most of us can take full control of our lives and well prepare for our own longevity, the nation's Aging Network is there to support older people who need help to achieve maximum independence; and

Whereas, the Older Americans Month theme complements the work done every day by the Illinois Department on Aging and the State's Aging Network on behalf of Illinois' one and one half million older adults; and

Whereas, the services and programs provided through the Aging Network are helping more than 500,000 Illinois seniors live independently at home in their own communities for as long as possible; and

Whereas, as the 1990s draw to a close, our nation is aging at an unprecedented rate and will continue to do so well into the next millennium and millions of these older Americans will call Illinois home; and

Whereas, in anticipation of the needs of current and future generations of older adults, our duty is to respond to those needs so all Illinoisans may live longer and grow stronger;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1998 as OLDER AMERICANS MONTH in Illinois.

Issued by the Governor April 22, 1998.

Filed by the Secretary of State May 1, 1998.

98-236

## RESPECT FOR LAW WEEK

Whereas, the crime rate in our community, as well as in our neighboring

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communities, continues to rise everyday; and

Whereas, the problems of crime touch and affect all segments of our society and can erode the moral and economic strengths of our communities; and

Whereas, our vitality as a community and as a society depends to a great degree on the willingness of each individual member to give of his or her time and talents in volunteer service; and

Whereas, Optimist Clubs and their 150,000 dedicated volunteer members continue to sponsor and support programs aimed at combating crime and encouraging a respect for law;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 3-10, 1998, as RESPECT FOR LAW WEEK in Illinois.

Issued by the Governor April 22, 1998.

Filed by the Secretary of State May 1, 1998.

98-237

## THE BERGHOFF DAY

Whereas, Chicago's dining tradition, The Berghoff Restaurant, celebrates its 100th Anniversary on Wednesday, April 29, 1998; and

Whereas, the restaurant's founder, Herman Joseph Berghoff, an immigrant to America in 1870 from Germany, began brewing Berghoff Beer in Fort Wayne, Indiana, in 1887 as a family enterprise with his three brothers, Henry, Hubert and Gustav; and

Whereas, 500 descendants of the four brothers will gather in Chicago at The Berghoff Restaurant on July 4, 1998, for a family reunion; and

Whereas, the Old World elegance of The Berghoff embodies the multigenerational immigrant story with which every Chicagoan can identify; and

Whereas, The Berghoff continues to thrive in the heart of Chicago's Loop. Reflecting Chicago's rich diversity, the restaurant employs people of over 20 ethnic backgrounds, many of which have been at The Berghoff for over 30 years; and

Whereas, the Berghoff family continues to preserve the century-old ideals of its founder by carrying on the family business with a commitment to quality and values and loyalty to the City of Chicago;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 29, 1998, as THE BERGHOFF DAY in Illinois and congratulate them on 100 years of commitment and dedication to the citizens of Illinois.

Issued by the Governor April 22, 1998.

Filed by the Secretary of State May 1, 1998.

98-238

## EMERGENCY SERVICES PERSONNEL DAY

Whereas, the Chicago area is recognized as a preeminent medical resource and its commitment to the community is evident in its health organizations; and

Whereas, emergency health care depends on the split-second reflexes of emergency services personnel and the ability to handle high-pressure situations on a 24-hour basis; and

Whereas, health care employees such as emergency services/trauma coordinators, administrators, physicians, nurses, nurses aides, first

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responders, paramedics, transporters, unit clerks, social workers, pastoral care workers, ancillary personnel volunteers and others involved in providing emergency services are an integral part of the health care team; and Whereas, these individuals' contributions enhance the metropolitan area's reputation for health care excellence; and

Whereas, the more than 115 area hospitals and health care organizations that are members of the Metropolitan Chicago Healthcare Council salute emergency personnel and the important role they play in maintaining the Chicago area as a healthy and productive community;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 27, 1998, as EMERGENCY SERVICES PERSONNEL DAY in Illinois and urge all citizens to recognize the achievements of these dedicated people.

Issued by the Governor April 23, 1998.

Filed by the Secretary of State May 1, 1998.

98-239

## LIONEL KRAMER DAY

Whereas, Lionel Kramer, president and vice chairman of the AAA-Chicago Motor Club, concludes his 40-year tenure with the organization he has been affiliated with since 1958; and

Whereas, Kramer is a trustee of the AAA Foundation for Traffic Safety, a not-for-profit, publicly supported charitable research and educational organization dedicated to saving lives and reducing injuries by preventing traffic crashes; and

Whereas, Kramer serves as secretary of the Illinois Editors' Traffic Safety Seminar, an organization chartered by the State of Illinois as a nonprofit corporation comprised of daily and weekly newspaper professionals whose mission is "Saving lives by reducing highway traffic crashes through constructive public thought, which is transformed and stimulated by the public press of Illinois;" and

Whereas, as chair of AAA's National Public and Government Relations Committee, launching the national AAA campaign, "Licensed to Learn: A Safety Program for New Drivers," Kramer continued promoting traffic safety awareness on a national level; and

Whereas, he became a household name to many Illinoisans, through his weekly segments on WGN-Radio, broadcasting road condition reports and reporting on the gas crisis of 1974 and 1979; and

Whereas, Kramer has continued the efforts of traffic safety established by the AAA School Safety Patrol in 1920, when Chicago Motor Club officials and Chicago civic leaders became alarmed by the rise in young pedestrian deaths and injuries brought about by the rapid increase in automobile traffic; and

Whereas, Kramer's career efforts in promoting increased investment in the region's surface transportation infrastructure have helped Illinois remain at the forefront in the world's transportation and economic network;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1, 1998, as LIONEL KRAMER DAY in Illinois.

Issued by the Governor April 23, 1998.

Filed by the Secretary of State May 1, 1998.

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98-240

## LYNN O'SHEA DAY

Whereas, Lynn O'Shea, Executive Director of Seguin Services, Inc. for the past 15 years, is leaving May 1, 1998, to become executive director of another agency serving people with disabilities nearer her home; and Whereas, a reception is planned for April 29 at the Seguin office commemorating the occasion and honoring Lynn; and

Whereas, Seguin Services is a not-for-profit organization devoted to enriching the lives of people with disabilities; and Whereas, Lynn has led Seguin Services in such a manner that the agency has been consistently fiscally sound in the face of continuing funding crises; and

Whereas, under her direction, Seguin has grown to a \$15 million organization providing jobs for over 400 people; and Whereas, realizing that the services Seguin provides can only be accomplished by retaining quality staff, she has continually fought to increase the wages of entry level staff and provide ongoing training to upgrade their skills; and

Whereas, recognizing the rights of people with developmental disabilities to live and work the same way their neighbors do, Lynn has broken down barriers to community integration; and

Whereas, in 1994, Lynn responded to the grave need for increasing numbers of foster care homes for infants and children with disabilities and severe medical conditions. She launched a foster care program that is now recognized as a model in Illinois; and

Whereas, her leadership style and never-say-no attitude have earned her respect, admiration and love from her management team; Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 29, 1998, as LYNN O'SHEA DAY in Illinois.

Issued by the Governor April 23, 1998.

Filed by the Secretary of State May 1, 1998.

98-241

## NATIONAL ASSOCIATION OF LETTER CARRIERS' FOOD DRIVE DAY

Whereas, the National Association of Letter Carriers (NALC) and the United States Postal Service will be conducting their sixth annual nation-wide food drive on May 9, 1998, to help stock food banks and food pantries within our local communities; and

Whereas, in 1997, more than 1,400 NALC branches collected 73.2 million pounds of food from families along postal routes in some 10,000 cities and towns, including a generous donation of 20 million pounds of canned goods from the Campbell Soup Company; and

Whereas, the NALC's fifth annual food drive was the largest one-day collection of food in this nation's history; and

Whereas, last year, Illinois letter carriers collected over 22,000,000 pounds (11,000 tons) of food across the State;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 9, 1998, as NATIONAL ASSOCIATION OF LETTER CARRIERS' FOOD DRIVE DAY in Illinois.



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Issued by the Governor April 23, 1998.  
Filed by the Secretary of State May 1, 1998.

98-242

## SENIOR CELEBRATION DAY

Whereas, education is a lifelong process; and  
Whereas, public education is a community enterprise and community education philosophy advocates full use of public facilities, programs and services by every age group in the community; and

Whereas, the skills, talents and experiences of senior citizens are untapped resources in many communities and intergenerational cooperation promotes efficient use of human resources; and  
Whereas, community education promotes the use of community resources, community volunteers in schools, senior citizen centers and community agencies, and maximizes the use of human resources to provide educational opportunities for community residents of all ages; and

Whereas, the goal of community education is to promote a sharing, caring, learning community; and

Whereas, "Jewels of our Communities" is the theme of Senior Citizen Celebration Day; and

Whereas, senior citizens have earned our respect and recognition for their past accomplishments, and their present and future contributions;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 13, 1998, as SENIOR CELEBRATION DAY in Illinois.

Issued by the Governor April 23, 1998.

Filed by the Secretary of State May 1, 1998.

98-243

## WALK DAY

Whereas, the Nutrition & Wellness Team of the University of Illinois Cooperative Extension Service (CES) has resolved to provide education to improve the health of all Illinois citizens; and

Whereas, the Dietary Guidelines of the United States Department of Agriculture include physical activity as an important guideline for maintaining and improving weight and general health; and

Whereas, regular walking is a simple, inexpensive method whereby an individual can increase overall physical activity; and

Whereas, good nutrition combined with regular physical activity improves the health and well-being of citizens and empowers people to take personal responsibility for their own health; and

Whereas, the first Monday in May is designated WALK DAY for the nation;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 4, 1998, as WALK DAY in Illinois.

Issued by the Governor April 23, 1998.

Filed by the Secretary of State May 1, 1998.

98-244

## A DAY MEMORIALIZING THE INNOCENT AND FORGOTTEN

## VICTIMS OF THE HOLOCAUST

Whereas, the Holocaust was one of the most cataclysmic events in world history; and

Whereas, millions of innocent people of diversified races, nationalities and religious affiliations perished in the Nazi death camps, including six million Jews and five million Gentiles; and

Whereas, the reprehensible acts included the brutal murder of three million Poles, including that country's intelligentsia and literati; and

Whereas, innumerable atrocities were performed on innocent people for solely attempting to come to the aid of their Jewish friends, colleagues and, oftentimes, complete strangers;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 2, 1998, as A DAY MEMORIALIZING THE INNOCENT AND FORGOTTEN VICTIMS OF THE HOLOCAUST in Illinois and encourage all citizens to remember those who needlessly lost their lives in the darkest and most tragic hours of history.

Issued by the Governor April 24, 1998.

Filed by the Secretary of State May 1, 1998.

98-245

## BUZ HOFFMAN DAY

Whereas, Buz Hoffman is founder and president of Lakewood Homes and the chairman of LHI Mortgage, Inc. and Northland Title Company; and

Whereas, Lakewood Homes became the Chicago area's third largest builder and largest single development in Chicago; and

Whereas, Lakewood Homes has been recognized and honored by Builder's Magazine, the Chicago Sun Times, and Who's Who Among America's Builders and Designers; and

Whereas, Buz has contributed greatly to the National Association of Home Builders, the Home Builders Association of Illinois, the Home Builders Association of Greater Chicago, and the Fannie Mae Midwest Regional Advisory Board; and

Whereas, Buz has dedicated himself to the worthwhile pursuit of causes including the American Jewish Committee, the Jewish United Fund, the Illinois Special Olympics, and the Girl Scouts of America; and

Whereas, Buz and his wife, Joey, has celebrated their life together with their four children, Andria, Lacey, Jessica and Sam;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 29, 1998, as BUZ HOFFMAN DAY in Illinois.

Issued by the Governor April 24, 1998.

Filed by the Secretary of State May 1, 1998.

98-246

## CHILDREN'S MENTAL HEALTH WEEK

Whereas, one in 20 children and adolescents have an emotional, behavioral, or neurological disability; and

Whereas, the causes of these disabilities are rooted in genetic predisposition, inadequate nurturing and medical care, and threatening and



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impoverished living conditions; and

Whereas, the members of the community need information and understanding of these disabilities and their causes; and

Whereas, the cost to these children, their families, and the community are exorbitant in dollars, lost potential, and heartaches; and

Whereas, there are many adults--parents, grandparents, neighbors, friends, counselors, teachers, clergymen, and business people--who can contribute to better outcomes for the youth of our State; and

Whereas, it is essential that these adults have access to education, information, and training in raising mentally healthy children; and

Whereas, our future lies in the hands of our children;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 3-9, 1998, as CHILDREN'S MENTAL HEALTH WEEK in Illinois.

Issued by the Governor April 24, 1998.

Filed by the Secretary of State May 1, 1998.

98-247

## POLISH WOMEN'S ALLIANCE DAY

Whereas, the Polish Women's Alliance of America is celebrating the 100th Anniversary of its founding; and

Whereas, it was originally organized as a response to the desire of Polish American women to be active members of a fraternal benefit society; and

Whereas, the organization is the embodiment of the motto, "In the Ideals of Women are Found the Strength of a Nation"; and

Whereas, in this centennial year, Polish Women's Alliance serves 55,000 members in 16 states and the District of Columbia; and

Whereas, the Polish Women's Alliance has represented the Polish community in negotiations and discussions at the highest levels of U.S. and Polish government; and

Whereas, it has championed countless humanitarian, philanthropic and civic causes making it a viable and visible force in Polonia; and

Whereas, as we approach the 21st century, the Polish Women's Alliance continues to live up to the time-honored mission it set for itself 100 years ago: BOG, CZYN, OJCZYŻNA - God, Service, Country;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 16, 1998, as POLISH WOMEN'S ALLIANCE DAY in Illinois.

Issued by the Governor April 24, 1998.

Filed by the Secretary of State May 1, 1998.

98-248

## PRINCETON FIRE DEPARTMENT EMPLOYEES/90 DAYS

## NOTICE OF REFERENDUM

Whereas, the City of Princeton Fire Department desires to provide Hospital Insurance (Medicare) coverage for its employees not mandatorily covered for Hospital Insurance pursuant to Public Law 99-272 and pursuant to Public Law 101-508; and

Whereas, a referendum must be conducted in accordance with the Federal Social Security Act and Illinois Pension Code, Article 21, as amended, which

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requires that each eligible employee who is a participant in the Fire Department's retirement plan be given the opportunity to register his/her personal choice by written ballot as to whether he/she elects Hospital Insurance coverage; and

Whereas, the referendum procedure requires that each eligible employee shall be given a detailed description of the two choices available to him/her and allowed 90 days notice prior to the exercise of his/her right to choose; and

Whereas, I hereby designate the Executive Secretary of the State Employees' Retirement System and the Mayor of the City of Princeton as the officials who are jointly responsible for the distribution of the details of the proclamation pursuant to the provisions of the Federal Social Security Act and the Illinois Pension Code, Article 21, as amended. I hereby confer upon such officials the authority; to jointly certify the results of the referendum to be conducted as herein proclaimed in accordance with said statutes; to allocate their other duties under this proclamation among themselves; and to delegate such other duties to others as they shall deem appropriate;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim a period of at least 90 days notice between the dates of May 4, 1998, and August 1, 1998, to eligible employees of the City of Princeton Fire Department that their choice shall be expressed by written ballot in conformity with the referendum procedure under the Federal Social Security Act and the Illinois Pension Code. The ballots shall be returned to the Mayor of the City of Princeton and the referendum concluded not later than August 1, 1998.

Issued by the Governor April 24, 1998.

Filed by the Secretary of State May 1, 1998.

98-249

## WOMEN'S BOARD OF PARTNERS HOME CARE DAY

Whereas, Partners Home Care was established in 1976 to provide comprehensive medical and social services necessary to maintain elderly individuals in their own homes as an alternative to hospitalization or nursing home placement; and

Whereas, the program provides more than 96,000 visits to some 1,900 patients each year, with the help of 165 professionals and 100 volunteers; and

Whereas, the Women's Board of Partners Home Care was formed 12 years ago and has raised \$1,697,781 million to help fund Partners Home Care; and

Whereas, the Women's Board will sponsor its 12th Annual Spring Gala on April 30, at the Drake Hotel;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 30, 1998, as WOMEN'S BOARD OF PARTNERS HOME CARE DAY in Illinois in recognition of the compassion and dedication the individuals involved in this program have demonstrated through the services they provide to our elderly citizens.

Issued by the Governor April 24, 1998.

Filed by the Secretary of State May 1, 1998.

98-250

## BARRINGTON SUZUKI STRINGS DAYS

## PROCLAMATIONS

Whereas, the Barrington Suzuki Strings has been selected to be a representative of the State of Illinois in a major 1998 international music festival in Europe; and

Whereas, the Barrington Suzuki Strings will perform in Italy's four imperial cities: Rome, Florence, Venice and Milan from June 18-29, 1998, in the American Celebration of Music in Italy; and

Whereas, the Suzuki Strings were selected on the basis of recommendations from State music officials, superior performance ratings and past competition results; and

Whereas, the Suzuki Strings will perform for enthusiastic Italian audiences, and will also have opportunities to see the performances of other American groups, who are also participating in the "Music Festival;" and

Whereas, Italians, with help from the French, invented the system of writing musical notation used today, and a 16th-century Venetian printed the first musical scores with movable type; and

Whereas, the American Celebration of Music in Italy is organized by Music Celebrations International of Tempe, Arizona, a professional festival/event organizer with years of both national and international music festival expertise; and

Whereas, the goal of the organizers is to include at least one instrumental and one choral group from each of 50 states participating in the American Celebration of Music in Italy;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 18-29, 1998, as BARRINGTON SUZUKI STRINGS DAYS in Illinois.

Issued by the Governor April 27, 1998.

Filed by the Secretary of State May 1, 1998.

98-251

## DEFENSE TRANSPORTATION WEEK

Whereas, the economic well-being of this State and of this nation is dependent upon a sound transportation system; and

Whereas, the transportation policies implemented by State and federal regulatory bodies have provided this country with the most effective transportation services that exist anywhere; and

Whereas, the impressive growth of the various modes of transportation has been in response to the public's increasing demands for specialized, flexible, low-cost, efficient transportation services to meet the changing business patterns of this country; and

Whereas, the military security of this country and of the world depends on the capacity of the transportation industry to move people and material; and

Whereas, the men and women who constitute the workforce of this vast transportation industry should be recognized for their outstanding contribution to the daily needs of every farm, home and business in the communities of this State and this country; and

Whereas, Illinois is the home of the United States Transportation Command, this nation's premier defense transportation organization;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 11-15, 1998, as DEFENSE TRANSPORTATION WEEK in Illinois.

Issued by the Governor April 27, 1998.

## PROCLAMATIONS

Filed by the Secretary of State May 1, 1998.

98-252

## GOOD SAM CLEAN-UP DAY

Whereas, RVing is a clean, healthful and wholesome recreational activity enjoyed by the people of this State; and

Whereas, for the third consecutive year, The Good Sam Club, the world's largest RV owners' club, is staging a nationwide cleanup of highways, parks and

Whereas, this activity is beneficial to all, and deserves widespread support among the population; and

Whereas, we wish to encourage Good Sam in its efforts to make a better world;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 16, 1998, as GOOD SAM CLEAN-UP DAY in Illinois.

Issued by the Governor April 27, 1998.

Filed by the Secretary of State May 1, 1998.

98-253

## MUNICIPAL CLERKS WEEK

Whereas, the Office of the Municipal Clerk, a time-honored and vital part of local government exists in countries throughout the world; and

Whereas, this office consistently and efficiently serves its local legislative body, the municipal staff, and the general public by recording the actions of the Council, Commissions and Committees; maintaining them for reference and inspection; and preserving them for the historical continuity that can be passed on to future municipal officials and staff members; and

Whereas, this office most often performs one or more additional important functions including election administration, finance management, records administration and general administrative services; and

Whereas, the Municipal Clerk and his or her staff have through dedicated effort and a sense of professionalism, continuously updated their skills and technical knowledge to prepare for the challenges of the future; and

Whereas, it is appropriate that we recognize the accomplishments of this office and call the public's attention to the many services that it performs;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 4-10, 1998, as MUNICIPAL CLERKS WEEK in recognition of Municipal Clerk's outstanding contribution and dedication to public service for the community.

Issued by the Governor April 27, 1998.

Filed by the Secretary of State May 1, 1998.

98-254

## PEORIA MEDICAL SOCIETY DAY

Whereas, 1998 marks the sesquicentennial (150th year) of the Peoria Medical Society; and

Whereas, the Peoria City Medical Society was organized in 1848 by a group of eight doctors: Dr. Rodolphus Rouse, Dr. Joseph C. Frye, Dr. Francis McNeil, Dr. Edward Dickinson, Dr. John Murphy, Dr. John Arnold, Dr. Elias Cooper and

## PROCLAMATIONS

Dr. Elwood Andrew; and

Whereas, the Peoria Medical Society enables members to assert their rights and protect their interests, to guide the morals of each other, to preserve their respectability, to maintain the honor and dignity of their profession, to advance their knowledge, and extend their usefulness; and

Whereas, the Peoria Medical Society has worked together as a medical community to advance the care rendered to their patients and to the Peoria community; and

Whereas, the Peoria Medical Society helps in the development of innovative approaches in patient care and participates in the decision-making process of change in order to meet the challenges of medical practice today; and

Whereas, it is important to recognize President - Rodney C. Osborn, MD; President-Elect - David M. Johnson, MD; Secretary - J. Stephen Marshall, MD; and Treasurer - Michael C. Vidas, MD for their continued hard work and commitment to the Peoria Medical Society;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1, 1998, as PEORIA MEDICAL SOCIETY DAY in Illinois.

Issued by the Governor April 27, 1998.

Filed by the Secretary of State May 1, 1998.

98-255

## RETINITIS PIGMENTOSA (RP) DAY

Whereas, Retinitis Pigmentosa (RP) is the largest source of internally caused blindness and deaf-blindness in the world today; and

Whereas, RP is a hereditary blinding eye disease which affects over 500,000 people in the United States, at least 25,000 of whom live in Illinois; and

Whereas, to help combat Retinitis Pigmentosa and allied retinal degenerative diseases, the Foundation Fighting Blindness seeks to raise public awareness and the continued strong support of scientific research for the betterment of the hundreds of thousands of people who are afflicted by this disease;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 18, 1998, as RETINITIS PIGMENTOSA (RP) DAY in Illinois.

Issued by the Governor April 27, 1998.

Filed by the Secretary of State May 1, 1998.

98-256

## BETTER HEARING MONTH

Whereas, communicative disorders such as hearing loss, speech impairments, and related language deficiencies constitute our nation's number one disability; and

Whereas, 24 million American -- about 10 percent of our population -- and 1.1 million Illinoisans have speech, language, or hearing impairments that may affect their education, vocational, personal and social functions; and

Whereas, most people with such disorders can be helped through medical treatment, surgery, hearing aids or appropriate therapy; and

Whereas, the first step toward obtaining help is knowing it is available;

## PROCLAMATIONS

and

Whereas, the leading national and regional organizations concerned with hearing, speech and language problems have joined together to promote public awareness through an extensive annual effort; and

Whereas, such an effort will encourage and stimulate early detection of communicative disorders, proper prevention and treatment and greater public understanding of hearing, speech and language impairments;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1998 as BETTER HEARING MONTH in Illinois.

Issued by the Governor April 28, 1998.

Filed by the Secretary of State May 1, 1998.

98-257

## DAY OF PRAYER

Whereas, in 1952, the United States Congress unanimously passed a joint resolution establishing the annual National Day of Prayer; and

Whereas, May 1, 1998, marks the 46th annual National Day of Prayer; and

Whereas, all people are free to profess their religious beliefs without governmental interference or prohibition, whether in their capacities as government officials, teachers, neighbors, or parents; and

Whereas, the National Day of Prayer celebrates our country's rich heritage of prayer; and

Whereas, on this special day we reflect a particular aspect of our history and common culture; and

Whereas, this event encourages all American citizens to see beyond themselves, without coercion or specific ideology; and

Whereas, today affords us the opportunity for all Americans to join in united prayer and give thanks, to request healing for wounds endured, and to ask for divine guidance for our leaders;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 7, 1998, as a DAY OF PRAYER in Illinois.

Issued by the Governor April 28, 1998.

Filed by the Secretary of State May 1, 1998.

98-258

## DIALOGUE ON RACE DAY

Whereas, our increasingly diverse nation presents a unique challenge to each of us as we approach the 21st century. Within the next 50 years it is projected that there will be no majority racial group in our nation; and

Whereas, to ensure that our increasing diversity unites and strengthens us individually and as a nation--economically, politically, socially, and morally--it is important to engage in honest and civil dialogue across racial and ethnic lines; and

Whereas, the power of dialogues should not be underestimated. When people can explore perspectives and ideas in a safe environment, they discover how much they share in common and learn to appreciate their differences. Maximum impact is achieved when dialogue can continue over an extended period of time so that all participants have a full opportunity to share and to listen to



## PROCLAMATIONS

others. In this way more permanent growth and change can occur, and we will be brought closer together;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 30, 1998, as DIALOGUE ON RACE DAY and urge all residents of this State to commit themselves to narrow racial divisions in our communities, in our State, and in our nation.

Issued by the Governor April 28, 1998.

Filed by the Secretary of State May 1, 1998.

98-259

## MANUFACTURED HOUSING MONTH

Whereas, housing affordability is a major concern for all the citizens of the State of Illinois; and

Whereas, innovative construction methods, attractive financing, and a desire for quality housing have increased the demand for manufactured homes; and

Whereas, at approximately one-half the cost of site-built housing, manufactured housing offers a safe, attractive, and affordable avenue to home ownership for Illinois residents; and

Whereas, the Illinois Manufactured Housing Association continues to focus the attention of the citizens of this State on innovative land planning, product technology, community development and consumer awareness; and

Whereas, the association continues to focus the attention of local and state governments, as well as that of the consumer, on the pioneering and ever expanding efforts of the manufactured housing industry to assume its role in the affordable housing solution and the desirability of this type of home ownership;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1998 as MANUFACTURED HOUSING MONTH in Illinois.

Issued by the Governor April 28, 1998.

Filed by the Secretary of State May 1, 1998.

98-260

## SWEDISH CULTURAL SOCIETY DAY

Whereas, in honor of its 75th anniversary, the Swedish Cultural Society, Chicago Chapter, will celebrate with a banquet at the Francis Dewes Mansion (formerly the Swedish Engineer Society) in Chicago; and

Whereas, in Chicago in 1933, the Swedish Cultural Society, in conjunction with the World Fair, arranged a congress of all Swedish organizations; and

Whereas, in 1937 the Swedish Cultural Society provided funds for a bust of world-famous botanist Carl von Linne and presented it to the Carl von Linne Elementary School in Chicago; and

Whereas, the Swedish Cultural Society provided a forum for many local Swedish poets and intellectuals; and

Whereas, since November 1924, the Swedish Cultural Society sponsors the Annual Gustav II Adolf Concert; and

Whereas, the Swedish Cultural Society has hosted numerous choruses, folkdance groups, musicians, singers and other talents from Sweden,

## PROCLAMATIONS

consequently building bridges of friendship between people and nations; and  
Whereas, the Swedish Cultural Society collects funds for a scholarship to the Stjorden Swedish Language Camp in Moorehead, MN, sponsored by the National US Executive Board in St. Paul, MN; and

Whereas, Per Hugo Kristensson, President of the Chicago Swedish Society, Chicago Chapter, is to be commended for his commitment to promote the rich heritage and culture of the Swedish American community;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 3, 1998, as SWEDISH CULTURAL SOCIETY DAY in Illinois.

Issued by the Governor April 28, 1998.

Filed by the Secretary of State May 1, 1998.

98-261

## ASIAN AMERICAN HERITAGE MONTH

Whereas, the Asian American community constitutes the fastest growing minority group in the country and is an important element of our unique American mosaic; and

Whereas, the achievements of Asian Americans have contributed to our nation's progress and prosperity in a wide range of fields including art, architecture, literature, education, government, law, industry, commerce, medicine, science, and technology, thus having contributed to the quality of life for Asian Americans and non-Asians alike; and

Whereas, Asian Americans, and all those who journeyed to the United States in pursuit of freedom and liberty, are an important part of our nation's foundation; and

Whereas, the Asian American community is visible and active as its members make significant strides toward full participation and equal opportunity in all walks of life;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1998 as ASIAN AMERICAN HERITAGE MONTH in Illinois and urge all citizens to join this celebration recognizing the infinite contributions of Asian Americans to our great State.

Issued by the Governor April 29, 1998.

Filed by the Secretary of State May 1, 1998.

98-262 DAVID O. LIVINGSTON DAY

Whereas, David O. Livingston is the Executive Director of the State of Illinois Medical District Commission, the first medical district in the United States and now the largest such district in the world; and

Whereas, with more than 40,000 employees and revenues of \$1.5 billion, the District is an economic engine for the City of Chicago, Cook County and the State of Illinois, generating direct and indirect economic impact of more than \$5 billion annually; and

Whereas, the Medical District' Chicago Technology Park is one of the nation's first biotechnology research parks, comprising today more than a half-million square feet of medical research and technology development space where more than 20 established and recently formed biotech companies are presently headquartered; and

## PROCLAMATIONS

Whereas, under the dedicated management of David O. Livingston, the Chicago Technology Park within the District includes one of the nation's first and largest biotechnology incubator research centers; and

Whereas, through his outstanding record of public service achievements, David O. Livingston has helped provide the vision and skills that place Chicago and Illinois at the national forefront of medical technology and medical training, greatly benefiting his fellow citizens and society at large; and

Whereas, David O. Livingston, a graduate of the University of Illinois and Lyons Township High School, is a former officer in the U.S. Army and U.S. Army Reserves and a member of numerous civic and professional organizations committed to the betterment of society;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 30, 1998, as DAVID O. LIVINGSTON DAY in Illinois in recognition of the stellar contributions of an outstanding public servant.

Issued by the Governor April 29, 1998.

Filed by the Secretary of State May 1, 1998.

98-263

## FATHER JACK JUCHCINSKI CONGRATULATED

Whereas, those individuals who minister to the spiritual needs of others are worthy of the highest respect and admiration; and

Whereas, Father Jack Juchcinski is celebrating the Golden Jubilee of his ordination to the holy priesthood and the 76th anniversary of his birth; and

Whereas, he was born on May 4, 1922, and was ordained on May 8, 1948; and

Whereas, the illustrious life and extraordinary service of Father Juchcinski are a shining example of his love of God to all the people of this State;

Therefore, I, Jim Edgar, Governor of the State of Illinois, congratulate Father Jack Juchcinski upon the Golden Jubilee of his ordination into the holy priesthood and the 76th anniversary of his birth.

Issued by the Governor April 29, 1998.

Filed by the Secretary of State May 1, 1998.

98-264

## FOSTER PARENT APPRECIATION MONTH

Whereas, to foster means to nourish, cherish and encourage, which is what foster parents do for emotionally needy children whose natural parents can no longer provide them with care; and

Whereas, foster parents meet a very special need in our society by ensuring these children receive attention, respect, love, understanding, compassion, and health and educational services; and

Whereas, thousands of caring adults in Illinois have opened their hearts as well as their homes to provide a loving and stable environment for more than 40,000 children; and

Whereas, the contributions of Illinois foster parents to the welfare of these children are incalculable and irreplaceable; and

Whereas, Illinois foster parents deserve our gratitude and respect for the work they do every day to ensure our children receive the support they need at

## PROCLAMATIONS

a traumatic time in their lives;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1998 as FOSTER PARENT APPRECIATION MONTH in Illinois.

Issued by the Governor April 29, 1998.

Filed by the Secretary of State May 1, 1998.

98-265

ILLINOIS-IOWA SECTION OF THE AMERICAN  
CHEMICAL SOCIETY DAY

Whereas, the American Chemical Society (ACS) was founded in 1876 as a non-profit organization with 133 members, and today serves as the principal voice of the chemistry profession; and

Whereas, the ACS is currently the world's largest scientific society with a membership of more than 155,000 chemists and chemical engineers; and

Whereas, ACS provides the federal government with advice on scientific and technological issues, and serves as a leader in education policy and programs related to chemistry; and

Whereas, ACS's members participate in numerous local efforts to educate citizens, teachers, and students about chemistry, including such national events as National Chemistry Week each year; and

Whereas, May 13, 1998, marks the 75th Anniversary of the Illinois-Iowa Section of the American Chemical Society; and

Whereas, the Illinois-Iowa section is one of the oldest sections in the State, with a membership representing about 200 chemists and 14 counties on both sides of the Mississippi River;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 13, 1998, as ILLINOIS-IOWA SECTION OF THE AMERICAN CHEMICAL SOCIETY DAY in Illinois.

Issued by the Governor April 29, 1998.

Filed by the Secretary of State May 1, 1998.

98-266

## PROVIDER APPRECIATION DAY

Whereas, on May 8, 1998, The Monday Morning Moms and other organizations nationwide are recognizing Child Care Providers; and

Whereas, of the 21 million children under age six in America, 13 million are in child care at least part time. An additional 24 million school age children are in some form of child care outside of school time; and

Whereas, by calling attention to the importance of high quality child care services for all children and families within our State, these groups hope to improve the quality and availability of such services; and

Whereas, our future depends on the quality of the early childhood experiences provided to young children today; high quality early childcare services represent a worthy commitment to our children's future;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 8, 1998, as PROVIDER APPRECIATION DAY in Illinois.

Issued by the Governor April 29, 1998.

Filed by the Secretary of State May 1, 1998.

Rules acted upon during the quarter of April 1 through June 30, 1998 (Issues 1-13) are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 4401 published in Issue 40 will be listed as 50-4401-40. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or [jnatale@ccgate.sos.state.il.us](mailto:jnatale@ccgate.sos.state.il.us) (Internet address).

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